Integrated Regional and Statewide Travel Demand Management (TDM) Program Delivering Support of an Active Transportation and Demand Management (ATDM) Contract #C031290 (‘ATDM Services’) October 6, 2014

To All Concerned:

The New York State Department of Transportation (NYSDOT) is releasing the Non-Engineering Request for Proposals (RFP) referenced above. NYSDOT is seeking to competitively select a responsive and responsible Consultant to provide professional services to develop an Integrated’ Regional and Statewide Travel Demand Management (TDM) Program Delivering Services in Support of an Active Transportation and Demand Management (ATDM). All information necessary for the submission of your proposal is contained in this Request for Proposals.

Any questions regarding this project or proposal should be directed to Al Hasenkopf, the designated NYSDOT Contract Management Bureau contact for this solicitation, via e-mail at: alfred.hasenkopf@dot.ny.gov.

Please note the following Tentative Dates and Deadlines:

<table>
<thead>
<tr>
<th>Event</th>
<th>Timeline</th>
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<tr>
<td>RFP Release Date</td>
<td>October 6, 2014</td>
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<tr>
<td>Pre-Proposal Webinar</td>
<td>October 9, 2014 @ 10 AM</td>
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<tr>
<td>Question Submittal Deadline</td>
<td>October 23, 2014 COB</td>
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<td>Answers to Question Due ¹</td>
<td>October 29, 2014</td>
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<td>Proposals Due</td>
<td>November 6, 2014 @ 2:00 PM</td>
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<td>Proposal Evaluation Begins</td>
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<td>Negotiation</td>
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<td>Contract Execution</td>
<td>December 2014</td>
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<tr>
<td>Work Begins</td>
<td>January 1, 2015 ²</td>
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¹: A second Q&A round is possible ²: NTP may be for remainder of CY2015

If you are interested in developing a proposal in response to this solicitation, please complete the attached RFP Response Form. Instructions for complying with the Procurement Lobbying Law are also included.
The New York State Department of Transportation (NYSDOT) encourages the participation of certified Disadvantaged Business Enterprises (DBEs) in its solicitations. Please see the New York State Unified Certification Program (NYSUCP) DBE Directory for certified Disadvantaged Business Enterprises via: http://biznet.nysucp.net/.

For this solicitation, NYSDOT has set a DBE Participation contract Goal of 18%. Only certified DBE prime Consultants and certified subconsultants listed in the NYSUCP DBE Directory are eligible for credit in this procurement. Please see the RFP for more information.

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL) Section 165-a, effective April 12, 2012. This act may be viewed in its entirety at http://www.ogs.ny.gov/about/regs/docs/ida2012.pdf. Pursuant to SFL Section 165-a(3)(b), the Commissioner of the Office of General Services (OGS) has developed and maintains a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). The list may be found on the OGS website at: http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that, it will not utilize, on such Contract, any subcontractor that is identified on the prohibited entities list. Additionally, any Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation, must certify at the time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list. During the term of the Contract, should the New York State Department of Transportation (NYSDOT) receive information that a Bidder/Contractor (or any assignee) is in violation of the above-referenced certification, NYSDOT will offer the Bidder/Contractor (or any assignee) an opportunity to respond. If the Bidder/Contractor (or any assignee) fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then NYSDOT shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default. NYSDOT reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

We look forward to the receipt of your proposal.

Sincerely,
WILLIAM A. HOWE
Director
NYSDOT Contract Management Bureau
Enclosure
RFP RESPONSE FORM: ATDM Program

Please review this RFP. Please complete the following information and mail, e-mail, or fax to the NYSDOT address shown below, by the earliest practical date. This RFP Response form must be submitted along with the two required Procurement Lobbying Law forms (See Attachment 3.) before questions or other communications with the Department regarding this solicitation can be initiated.

______________ WE DO INTEND TO SUBMIT A PROPOSAL

______________ WE DO NOT INTEND TO SUBMIT A PROPOSAL FOR THE FOLLOWING REASONS:

________________________________________________________________________

________________________________________________________________________

Name and Address of Organization (Include Zip Code):

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Signature: ______________________________ Date: ________________

Types of Printed Name and Title: ________________________________

Telephone: ______________________________ Fax: ________________

E-Mail Address: ______________________________

RFP Title: ______________________________

Please send to:

* E-Mail: alfred.hasenkopf@dot.ny.gov RE: #C031290

* Regular Mail:
  New York State Department of Transportation
  Contract Management Bureau, 6th Floor
  50 Wolf Road
  Albany, New York 12232
  ATTN: Contract #C031290

* Fax: 518-457-2875
NEW YORK STATE DEPARTMENT OF TRANSPORTATION

REQUEST FOR PROPOSALS

Integrated Regional and Statewide
Travel Demand Management (TDM)
Program Delivery in Support of an
Active Transportation and Demand Management (ATDM)
Contract #C031290 (‘ATDMP Services’)

RFP Release Date: October 6, 2014

Proposal Delivery Information:

   Al Hasenkopf, Contract Management Bureau, C031290
   New York State Department of Transportation
   50 Wolf Road, 6th Floor
   Albany, New York 12232

Proposal Due Date: November 6, 2014
REQUEST FOR PROPOSALS
NEW YORK STATE DEPARTMENT OF TRANSPORTATION
Integrated’ Regional and Employer-Based
Travel Demand Management (TDM)
and
Active Demand Management (ADM) Services
in Support of an
Active Transportation and Demand Management (ATDM) Program
Contract #C031290 (‘ATDMP Services’)

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NOTE: To access and download the online files: [https://www.dot.ny.gov/business](https://www.dot.ny.gov/business) and click on ‘Consultant Service Opportunities’, then click on the ‘Opportunities’ tab then click on the date for Contract #C031290. Or click on: [https://www.dot.ny.gov/portal/page/portal/doing-business/opportunities/consult-ads#1925](https://www.dot.ny.gov/portal/page/portal/doing-business/opportunities/consult-ads#1925). The online files will appear in a zip file – open the zip file to access the individual online attachments.
1. INTRODUCTION

1.1 Purpose of this RFP

The New York State Department of Transportation (NYSDOT) is releasing this Request for Proposals (RFP) to seek proposals from responsive and responsible consultants to provide professional services to manage and an Integrated Regional and Statewide Travel Demand Management (TDM) Program of Services in Support of an Active Transportation and Demand Management (ATDM) under Contract #C031290 (‘ATDMP Services’). NYSDOT intends to competitively select consultant services and enter into contract #C031290 with a responsible and responsive consultant that provides best value to the State based on this non-engineering/non-architecture solicitation.

1.2 General Background

1.2.1 NYSDOT Mission

It is the mission of NYSDOT to ensure that our customers — those who live, work, or travel in New York State — have a safe, efficient, balanced, and environmentally sound transportation system.

To attain its mission, the responsibilities, functions, and duties of NYSDOT include coordinating and developing a comprehensive transportation policy for the State; coordinating and assisting in the development and operation of transportation facilities and services for highways, railroads, mass-transit systems, ports, waterways, and aviation facilities; and formulating and keeping current a long-range, comprehensive statewide master plan for the balanced development of public and private commuter and general transportation facilities. This mission also includes administering a public safety program for railroads and motor carriers engaged in intrastate commerce; directing state regulation of such carriers in matters of rates and service; and providing oversight in matters relative to the safe operation of bus lines, commuter railroads, and subway systems that are publicly subsidized through the Public Transportation Safety Board.

Today, the New York State transportation network includes:

- A state and local highway system that annually handles more than 130 billion vehicle miles, encompassing more than 113,000 highway miles, 17,400 highway bridges, and numerous other assets such as large culverts, retaining walls, tunnels, and sign structures.
- A state and local highway system that annually handles over 130 billion vehicle miles. This total system encompasses more than 113,000 highway miles and more than 17,400 bridges.
- An extensive 3,500-mile rail network over which 68 million tons of equipment, raw materials, manufactured goods and produce are shipped each year.
- 485 public and private aviation facilities through which more than 80 million people travel each year.
- Over 130 public transit operators, serving more than 8.6 million passengers each day.
- 12 major public and private ports.

Within NYSDOT, the Statewide Policy and Performance Bureau will oversee this project.
2. **PROJECT AND CONTRACT OBJECTIVES**

2.1 Project Objectives

The goal of this procurement is to retain a qualified, responsive and responsible consultant services to assist NYSDOT to provide ATDMP services over a 60 month time period.

The objective is the continued delivery of flexible, dynamic, and robust deployment of TDM strategies, products, and services while effectively delivering regionally managed programs to regional markets, conditions, and assets. The objective of this program is to improve mobility, accessibility, system optimization and quality of life by improving alternatives to driving alone, effectively promoting and supporting these alternatives and reducing reliance on single occupant vehicle travel.

The intent of this single contract, RFP solicitation is to consolidate and build on the efficiencies and economies-of-scale provided by statewide integration to enable the flexible, dynamic, and robust deployment of TDM strategies, products, and services while effectively delivering regionally managed programs to regional markets, conditions, and assets. The objective of this program is to improve mobility, accessibility, system optimization and quality of life by improving alternatives to driving alone, effectively promoting and supporting these alternatives and reducing reliance on single occupant vehicle travel.

2.2 Contract Objectives

The Contract Objective for this solicitation is to select a qualified, responsive and responsible consultant (or team of consultants) via a fair and equitable Best Value Request for Proposal process. One (1) qualified prime consultant (or consultant team) will be retained through this RFP solicitation. The selected consultant will be assigned to manage the NYSDOT Regions 8, 10, and 11 TDM and ADM programs and to develop and deploy TDM/ADM products and services that are unique to each Region. In addition, the selected consultant will respond to and carry out diverse TDM, ADM, and ATM integration tasks on a broad region-wide or statewide level that will be assigned on an ad hoc, task order basis as specific project needs are identified.

ONE CONTRACT AWARD: One award will be made under this RFP solicitation, preliminarily identified as Contract #C031290.

CONTRACT TERM: The base term of this contract will be for four (4) contract years commencing from the contract start date, with an optional one (1) year contract term extension. Execution of the extension will depend on performance, project need and funding availability.

OWNERSHIP OF DATA SOURCES: All data provided to and by the selected Consultant shall be the property of NYSDOT (or other Project Stakeholders). All reports or data generated by the selected Consultant shall be NYSDOT property.

CONSULTANT ARRANGEMENTS: The resulting contract shall be between NYSDOT and the selected Prime Consultant. The Prime Consultant shall be responsible for completion of all agreed-upon services. NYSDOT will only contract with one (1) responsive and responsible Prime Consultant, who will be the sole contact with regard to all provisions contained in this RFP and resulting contract #C031290. If the Consultant’s selected solution includes subconsultants, the Consultant under contract will be the Prime Consultant who must assume full responsibility for all aspects of the project, including performance and completion of all subconsultant work. All necessary communications will be directed from NYSDOT to the Prime Consultant (Project
Manager). The Prime Consultant is responsible for offering qualified subconsultants with competitive rates/costs. Consultants are encouraged to partner to provide the required services and to meet the contract’s 18% DBE participation goal. Proposers must name a lead firm as the Prime Consultant that will serve as the legal contracting entity for the project period. If the proposal includes products or services from any other participating vendors, it is understood that those vendors will serve as subconsultants to the Prime Consultant. **Joint ventures are not allowed.** A firm offering to perform services as a prime consultant may be offered as a subconsultant in another firm’s proposal (and vice versa).

DBE CONTRACT GOAL: Eighteen percent or more DBE subconsultant participation over the life of the contract by the firm being awarded a contract via this RFP. Consultants are strongly encouraged to incorporate use of DBE subconsultant(s) in their proposed approach and scope of services. NYSDOT will evaluate a consultant team’s ability to perform the level of work required for the RFP’s various tasks to meet all of the RFP’s requirements. A consultant team could be selected based on the significant contributions and commercially useful functions performed solely by subconsultants.

FAIR AND EQUITABLE TREATMENT: For all firms participating in this competitive consultant selection process to receive fair and equitable treatment.

**2.3 Minimum RFP Responsiveness Requirements**

2.3.1 Any Firm that does not provide a complete proposal (complete Technical and Management submission and complete Cost submissions per RFP Section 4) may be determined to be non-responsive.

2.3.2 Any proposal received after the submittal due date/time shall be deemed to be non-responsive. Late proposals will not be considered for contract award. Proposers that plan to deliver their proposals should ensure receipt, in NYSDOT Contract Management’s Bureau’s office, by the proposal due date/time. Note that the deadline is for receipt of the proposal at NYSDOT’s office located at 50 Wolf Road, Albany, New York, not for the mailing or entrusting of the proposal to a delivery service.

2.3.3 NYSDOT will not accept facsimile or e-mailed proposals in response to this RFP.

2.3.4 Submission of acceptable, completed Procurement Lobbying Law forms (Attachment 3).

**3. SCOPE OF SERVICES**

**3.1 Background & Overview**

Over the past five years the New York State Department of Transportation (NYSDOT) has procured integrated Travel Demand Management (TDM)\(^1\) products and services through four integrated contracts, one each for NYSDOT’s downstate Region 8 (C030711), Region 10 (C030712), and Region 11 (C030713) that was provided under the 511 NY Rideshare brand -- [http://www.511ny.org/rideshare/](http://www.511ny.org/rideshare/). A fourth task order based contract (C030710) addressed TDM (Travel Demand Management) is about changing travel behavior and reliability. Managing travel demand is about providing travelers, regardless of whether or not they travel alone, with travel choices. In its broadest sense, TDM is defined as providing travelers with traditional and effective choices to improve travel reliability. Some examples include: carpooling; increased understanding of, availability, and use of transit options; park-and-ride, telecommuting; etc.

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\(^1\) TDM (Travel Demand Management) is about changing travel behavior and reliability. Managing travel demand is about providing travelers, regardless of whether or not they travel alone, with travel choices. In its broadest sense, TDM is defined as providing travelers with traditional and effective choices to improve travel reliability. Some examples include: carpooling; increased understanding of, availability, and use of transit options; park-and-ride, telecommuting; etc.
statewide TDM needs for NYSDOT and provided additional program, performance measurement, technical, and research support for each of the separately awarded Region 8, 10, and 11 contracts.

NYSDOT’s integrated TDM program developed under these four contracts has led to many program management and service delivery efficiencies including the consolidation of a single, integrated ride-matching system within the 511NY traveler information portal, more consistent management of multi-region common functions such as customer support program administration, and better integration and management of information related to modal assets such as park and ride and transit. This RFP builds on the advances being made in program integration by soliciting proposals for a single contract that is administered by: a) NYSDOT’s Policy and Planning Division with respect to statewide initiatives, research assignments and multi-Region coordinated tasks; and b) NYSDOT Region 8, 10, and 11 Program Managers with respect to customizing and localizing delivery of an integrated program to meet Department and respective Regional TDM objectives.

As mentioned above, the intent of this single contract, RFP solicitation is to consolidate and build on the efficiencies and economies-of-scale provided by statewide integration to enable the flexible, dynamic, and robust deployment of TDM strategies, products, and services while effectively delivering regionally managed programs to regional markets, conditions, and assets. The objective of this program is to improve mobility, accessibility, system optimization and quality of life by improving alternatives to driving alone, effectively promoting and supporting these alternatives and reducing reliance on single occupant vehicle travel.

With the evolution of NYSDOT’s TDM program under its current contracts, and its integration within the operational strategies of 511NY, NYSDOT is moving toward more Active Demand Management (ADM) and Active Traffic Management (ATM) initiatives in its approach to TDM. NYSDOT’s goal through this new single contract vehicle is to further advance the development of integrated TDM, ADM, and ATM products and services to support an Active Transportation and Demand Management (ATDM) program in economic and efficient manners.

NYSDOT is delivering these integrated TDM, ADM, and ATM products and services in order to manage high levels of congestion, enhance mobility and accessibility, and meet national air quality conformity requirements. NYSDOT is pursuing these goals as part of a statewide, coordinated approach through the hiring of a consultant (or a team of consultants) having special expertise and partnering with other public agencies with statewide, regional, and/or local responsibilities for specific functions, including provision of ride-matching services, provision of alternative transportation and employer services, and assisting with the marketing, coordination, and promotion of transportation options as well as policy, planning and research experience and

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2 ADM (Active Demand Management) uses a suite of strategies to influence more fluid, daily travel choices that support the redistribution of travel to less congested times of the day or routes or reducing overall trips by influencing mode choice. Some examples include: use of predictive traveler information systems (e.g., 511 NY) that provide comparative multi-modal travel times displayed to induce in-route mode shifts; on-demand transit; dynamic ridesharing through use of smart phone applications and ride-matching; dynamic parking pricing, real time parking availability, and parking reservation systems; an dynamic pricing/incentive approaches that increase transit and HOV usage. An example of ADM is the increased availability of web-based traffic information and travel choices through 511 NY (www.511NY.org) and 511 NY Clean Air (http://www.cleanairny.org/).

3 ATM (Active Traffic Management) uses as part of a suite of strategies information and technology to dynamically manage travel demand on transportation facilities. An example is deployment and use of transportation management centers (TMCs) that dynamically monitor highway networks and initiate control measures that affect changes in facility operations.

4 ATDM (Active Transportation Demand Management) is the collective approach for dynamically managing travel and traffic demand and available capacity of transportation facilities, using a combination of operational strategies that are tailored to real-time and predicted conditions in an integrated fashion. When implemented together and alongside traditional TDM strategies, these operational strategies help maximize the effectiveness and efficiency of transportation facilities and result in improved safety, trip reliability, and throughput.
subject matter expertise in effective TDM and emerging ATDM policies and strategies.

NYSDOT has embraced this approach to:

- Produce creative, consistent, and practical alternative transportation program services and solutions across the downstate New York metropolitan region
- Produce cost-efficiencies and economies-of-scale to enable effective ATDM program deployment tailored to key corridors and transportation destinations
- Empower commuters and travelers by offering safe, efficient, and equitable choices for how and when to travel
- Leverage innovative partnerships and approaches in ATDM deployment
- Support competitive local economies and a sustainable environment

This consolidated contract approach to progress NYSDOT’s TDM Program minimizes program duplication, ensures uninterrupted and continuous delivery of products and services that support broader ATDM strategies, and achieves a synergistic integration of products and services having similar intent across New York.

To build upon the TDM Program advances of the past five years in unifying the deployment of varied TDM and ADM initiatives under the 511 NY brand, NYSDOT is issuing this ‘Integrated’ RFP solicitation to ensure the continued and consistent delivery of varied TDM and ADM initiatives in support of a broad ATDM program over the next four-year period that will commence on January 1, 2015 under a single contract vehicle.

For Region 8, for Region 10 and for Region 11 program delivery, NYSDOT seeks a customized delivery of a detailed set of TDM products and services that meet the needs of the employer/employee at specific sites. This should be accomplished through the application of various customized TDM services.

3.2 NYSDOT ATDM Program Structure

The primary purpose of this solicitation is to award one contract that will build on the foundation of TDM and ATDM services established over the past five years. This program shall include deployment of TDM initiatives that specifically address prescriptive and functional program development, delivery, support, performance measurement, and research needs in the downstate New York metropolitan region including all boroughs of New York City; Nassau and Suffolk Counties on Long Island; Westchester, Rockland, Putnam Counties and parts of Orange, Dutchess, Ulster, and Columbia Counties in New York’s Hudson Valley; and on a statewide level.

Through this single RFP solicitation, NYSDOT intends to make one (1) award to qualified consultants and/or consultant teams. This award will provide for the development, deployment, technical support, planning, and research of a) needed TDM and ADM products and services integrated with ongoing ATM activities that delivers an effective ATDM program in each of NYSDOT’s governing Regions 8 (low-mid Hudson Valley), 10 (Long Island), and 11 (New York City) and b) integrated and coordinated TDM and ADM integrated with various related ATM activities that have broader regional and/or statewide significance and application.

As delineated in the Tasks below this consolidated contract shall support the integrated delivery of a Statewide TDM policy, planning, research and local stakeholder technical support program along with three Regionally funded and managed TDM service delivery programs. Services will draw from common tools, policies, and leveraged assets such as the 511NY system and branding, common ridematching software and customer service center (see Figure 1 below). However, the focus or emphasis of specific TDM/ATDM program elements will be tailored by each Regional
Program Manager to effectively address unique aspects of the local/regional travel market.

The rationale for making this distinction is two-fold:

1. The Regions will retain regional program oversight, identity and delivery, tailored to their local markets. This is particularly important since each of NYSDOT Regions 8, 10, and 11 will continue to fund regional TDM delivery albeit under the new single contract managed by NYSDOT’s Main Office.

2. Proposed costing, staffing, and resource allocation estimates should reflect the expectation of locally managing the delivery of three, distinct regional programs, albeit working from a common menu of activities and supported by a statewide integrated program. These estimates should also reflect an additional Statewide program support and planning, policy and research task order assignment delivery function.

Figure 1 below lists anticipated activities or program elements that will be undertaken within the four primary program delivery areas. The emphasis within each Region program may differ with respect to which menu items are the focus of delivery. However, as shown, the basic TDM program elements are common to all three Regions and efficiencies and economies of scale are critical to the effectiveness of each Region’s program. Statewide TDM initiatives and each of the regional delivery programs are more fully described in: a) Project Description: Overall Goals (previous); b) Task 3 – Local/Regional Customization of TDM Program Content/Services (following); and c) NYSDOT Program, Project Management, and Operating Protocols (following).

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<thead>
<tr>
<th>Statewide TDM Program</th>
<th>Region 8 TDM Program Delivery</th>
<th>Region 10 TDM Program Delivery</th>
<th>Region 11 TDM Program Delivery</th>
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<td>✓ Facility leases (park and ride, bike lockers, etc.)</td>
<td>✓ Guaranteed ride program</td>
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<td>✓ Vanpool program</td>
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<td>Program Performance Measurement</td>
<td>✓ Customer survey and feedback analysis</td>
<td>✓ Marketing plan, program development, and delivery</td>
<td>✓ Marketing plan, program development, and delivery</td>
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<td>✓ Customer survey and feedback analysis</td>
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<td>Policy Research</td>
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The overall goals of these integrated TDM and ADM products and services effectively integrated with ATM are to:

1. Increase the awareness of travelers/commuters to the range of specific modal choices serving their travel needs with the objective of increasing their willingness and confidence to consider the use of alternative modes of transportation; expand mobility options; improve sustainable economic growth and quality of life through reduced traffic congestion; improve air quality.

2. Support employer and community TDM service programs and incentivize participation to actively provide needed products and services, resulting in increased use of alternative modes of transportation.

3. Support more efficient traveler decisions throughout the New York metropolitan region and on a statewide level, thus promoting travel choices that positively affect mobility, traffic congestion, and air quality.

4. Increase awareness among key market segments such as seniors, students, and immigrant populations of available travel options for improving mobility and reducing traffic congestion and emissions that result in such benefits as lower travel costs, time savings, less stress, improved health, more sustainable communities, etc.

5. Support development of TDM Partnerships, working with Metropolitan Planning Organizations, transit agencies, local governments, universities, hospitals and large employers, outside of the three Downstate programs areas that:
   a) Advances unified TDM and ADM products and services that are effective, scalable, and sustainable;
   b) Build collaborative agreements and understandings with and among other municipal, institutional, and private agencies and organizations (e.g., MPOs, universities, transportation management associations, mobility management partners, alternative transportation service providers, etc.) to achieve more efficient use of alternative modes, ADM tools and technologies, and wider-spread mode shift impacts;
   c) Improves New York’s overall capacity to design and deliver synergistic TDM and ADM strategies in a coordinated, cost-effective manner; and
   d) Strengthens the case for TDM and ADM in New York by advancing methods for measuring the success of TDM and ADM approaches, documenting project activities, and evaluating findings that support mutual learning and deployment of an ATDM program at a statewide level.

3.3 Single Contract Protocols

The following operating protocols shall be in effect under a resulting single contract vehicle.

**Consultant Project Management and Related Operating Protocols**

The Consultant will provide the services to produce all requested services and deliverables per the RFP’s requirements. The Consultant shall perform all of the activities and tasks required to
achieve the project goals, objectives and outputs. All services must be consistent with State and Federal laws and regulations and shall be appropriate and acceptable to NYSDOT’s management. All services shall be delivered per the contract’s operating protocols.

During the life of the project, NYSDOT management will review service delivery and deliverables and evaluate such for completeness, clarity, adherence to generally recognized standards, and compliance with NYSDOT’s intent as conveyed in this RFP and contained in the resulting contract. A deliverable, phase, or milestone will not be considered complete until sign-off has been given by NYSDOT. NYSDOT will only render payment for services and deliverables it accepts.

To the best of its ability and after contract approval/notice to proceed, the selected Consultant shall be required to provide all proposed key personnel for the duration of the project. After work begins, all changes in key Consultant personnel shall be subject to NYSDOT review and approval shall have equal or greater qualifications and shall be at same or lessor rates of pay.

**Consultant Project Account Managers**

The selected Consultant shall designate at least four qualified project account managers who shall serve as the primary contacts with NYSDOT’s program managers (described below) and be responsible for the performance of all tasks specified or that may be assigned under executed Agreement #C031290 to be deemed fully responsive to this RFP. As such, proposers shall identify and delineate a program management and service delivery framework that best provides for the optimal development, delivery, and management of all tasks required by this RFP.

Consultant shall present consultant project account manager qualifications and credentials in their proposal; the RFP process will include an interview with individuals designated by the consultant susceptible to contract award as project account managers. NYSDOT may at any time require the selected consultant(s) to replace the project account managers based on just cause after due process has been followed.

**Consultant Participation (Prime and/or Subconsultant)**

The Prime Consultant selected for C031290 shall be responsible for successful delivery of all consultant-provided services while under contract. All proposals in response to this RFP need to make it very clear any division of labor amongst members of a proposed consultant team; any labor directly supplied by a subconsultant shall be the responsibility of the Prime Consultant. Depending upon the nature of the services being provided and which member of the selected Consultant’s team is participating, NYSDOT reserves the right to work directly with any member of the Prime Consultant’s team. In these cases, the Prime Consultant’s involvement shall only be where discrete reimbursable value is added; any non-value added mark up by the Prime Consultant is not authorized under C031290.

**NYSDOT Program, Project Management, and Related Operating Protocols**

NYSDOT will appoint a Policy & Planning Division Project Manager who will serve as the initial single point of contact for the Consultant on the statewide related matters. (other NYSDOT project managers will direct the consultant on Regional matters). Please refer to Figure 1 to distinguish the tasks between MO and the Regions.

The Policy & Planning Division project manager will lead and coordinate the effort for NYSDOT and manage the Consultant’s service delivery to NYSDOT. The Policy & Planning Division project manager will be solely responsible for decisions related to the acceptance and approval of
all statewide deliverables provided by the Consultant and for ensuring required NYSDOT resources are available. NYSDOT will attempt to make its resources available in a timely manner, which is subject to changing priorities.

The Regional project managers will lead and coordinate the effort for their respective regions. The Regional project manager will be solely responsible for decisions related to the acceptance and approval of all regional deliverables provided by the Consultant.

This integrated RFP solicitation will ensure consistent delivery and support of NYSDOT’s TDM and ADM products and services, integrated where possible with ATM activities, in support of a statewide ATDM program over a four-year period (or five years assuming the exercise of the one optional, 1-year extension). This RFP solicitation will result in consolidated single contract award that addresses specific TDM and ADM needs and services in each of NYSDOT’s governing Region 8 (Poughkeepsie office location), Region 10 (Hauppauge), Region 11 (Long Island City), and on a broader statewide level, including policy planning and research assignments.

Program and Project Management: A NYSDOT program and project management structure and approach will be established as follows:

1. The single contract will be managed by a NYSDOT Policy & Planning Division program manager who will:
   a) Ensure consistent and coordinated program delivery across the downstate Regions and on a statewide level;
   b) Provide relevant policy research, guidance, and coordination that assists in development and deployment of TDM and ADM products and services across the downstate Regions and on a statewide level;
   c) Ensure consistent integration of discrete, functional initiatives (via Tasks 1 through 11) under the 511 NY brand, the 511 NY traveler information portal, and the 511 NY Clean Air program;
   d) Identify, initiate and execute task order assignments of statewide significance (Under Task 11) that may assist in achieving the overall goals of this solicitation (approved task order assignments will be added to the agreement); and
   e) Ensure all billing under C031290 is consistent with products and services that are delivered and payment is made for products/services rendered (NYSDOT will internally coordinate billing submission review and approvals).

2. Notwithstanding the roles and responsibilities of the Policy & Planning Division’s program manager (as described in #1 above) NYSDOT will assign Regional program managers (i.e., one each for Regions 8, 10, and 11) who will retain primary project development, project management, and oversight responsibility along with the necessary authority over the work assigned under this solicitation directly related to:
   a) Development, customization, management, and delivery of downstate Regional or localized TDM and ADM products and services that support the development of a broad ATDM program in accordance with Regionally developed plans and the overall goals of this solicitation; and
   b) Execution of Region-specific scope and budget for all Regional development, delivery, and management tasks. Regional scopes, goals and budgets shall be
established under C031290, with the original agreement containing the first contract year’s scope and budget (CY2015) with scope update and additional budgets for subsequent contract years being added via formal supplemental agreement.

3. In addition to the roles, responsibilities, and functions of the Policy & Planning Division’s program manager and three Regional program managers (as described in #1 and #2 above), NYSDOT will assign additional NYSDOT Main Office and/or Regional program advisors or subject matter experts (SMEs) to guide and assist in the development, oversight, and delivery of relevant products and services associated with specific functional areas as follows:

   a) **511 NY Clean Air Program**: Overseeing design, development, management, and delivery of the Program’s technical functions and priorities, clean air messaging needs, and related marketing campaigns (i.e., Task 6);

   b) **Marketing, Outreach, and Promotion**: Overseeing executional details and providing guidance related to marketing, outreach, and promotional components relative to development and delivery of TDM and ADM products and services integrated with ATM activities (i.e., primarily Tasks 7 and 8);

   c) **Upstate New York Partnerships**: Overseeing program support for all partner organizations delivering TDM and ADM products and services within the 511 NY traveler information portal and ride-matching system (i.e., primarily Tasks 4, 5, and 10); and

   d) **Planning, Policy, and Technical Research Task Order Assignments**: Overseeing scope development and issuing specific assignments of regional or statewide significance that further the overall goals of this solicitation (i.e., Task 11).

   e) **Future TDM Related Programs**: NYSDOT reserves the right to, via formal supplemental agreement, add future TDM related programs to C031290 pursuant to any new federal legislation or State legislation/Governor’s order. The selected Consultant may be called upon to resource such additional work.

**Administrative and Operating Protocols**
Certain NYSDOT administrative and operating protocols will be established and provided to the selected Consultant when work commences under this contract. These administrative and operating protocols will generally address the following:

1. NYSDOT program managers (i.e., the NYSDOT Policy & Planning Division program manager and each of the three Regional program managers identified in #1 and #2 under Program & Project Management described above) will serve as the primary management contact and day-to-day liaison with the selected consultant’s project account managers;

2. NYSDOT’s Regional program managers, program advisors, and SMEs (i.e., the NYSDOT Regional program managers, program advisors, and/or SMEs identified in #2 and #3 under Program & Project Management described above) will have responsibility for the specific direction of all tasks at the Regional level and within certain areas of functional responsibility; development of schedules and budgets (i.e., individual budgets shall be established for each of the three Regional programs and specific functional areas described in #2 and #3 under Program & Project Management described above); verify satisfactory completion of technical work; review all technical work-related aspects of consultant billings and invoices in accordance with the terms of this executed agreement; and recommend to NYSDOT’s Policy & Planning Division program manager that payment be made for products produced/delivered and services rendered; The NYSDOT’s Policy & Planning Division program manager will process the regional bills only after a written approval by the respective regional manager is received.

3. In the regional operating scenarios (described in #2 under Program and Project Management above) NYSDOT’s Regional program managers will retain primary management roles with the selected Consultant’s project account managers relative to projects, tasks, and other work carried out within their respective regions. In the functional area operating scenarios (described in #3 under Program and Project management above) program advisors and/or subject matter experts will be assigned by the NYSDOT Policy & Planning Division program manager. Further details regarding roles/responsibilities of program managers, program advisors, and SMEs are described in #6 below;
4. A formal program management committee will also be established under the oversight of NYSDOT’s Policy & Planning Division program manager. This program management committee will consist of NYSDOT’s program managers, program advisors, and SMEs (i.e., described in #1, #2, and #3 under Program & Project Management described above) assigned under this contract. This program management committee will be established in order to:
   a) Oversee development of common/shared tasks that have broad regional and/or statewide impacts and implications
   b) Avoid real, perceived, or potential duplication of work efforts carried out under this contract or other NYSDOT contracts
   c) Coordinate outreach with target groups as needed

5. Relative to common/shared tasks (referenced in #4 above), NYSDOT’s Policy & Planning Division program manager will assign NYSDOT program advisors and/or SMEs from those serving on the program management committee. These common/shared task program advisors and SMEs will:
   a) Oversee development and delivery of the discrete common/shared task items, products, or services agreed to by the program management committee;
   b) Report and be accountable to the program management committee on progress being achieved;
   c) Coordinate with other program areas as needed; and
   d) As applicable, review related billing invoices for products and services developed, produced, and rendered and report the results to the respective regional managers and the Policy & Planning Division program manager in advance of the bills being paid.

6. Notwithstanding the roles and responsibilities of NYSDOT program managers, program advisors, and SMEs (as described in these Administrative and Operating protocols above), the general guiding principle governing NYSDOT management and administration of resulting Contract #C031290 will be NYSDOT's Policy & Planning Division and Regional program managers, who will respectively manage the Statewide and Regional program components under C031290. This includes serving as the day-to-day liaison with the appropriate consultant project account manager; providing direction regarding how individual projects are to be developed, deployed, and/or supported; and approving payment of relevant billing invoices. Program advisors and SMEs will provide as needed support functions; advise NYSDOT program managers on elements of specific program and project development/deployment; and review and recommend payment of applicable billing invoices. Program advisors and SMEs will not have managerial responsibilities or serve as day-to-day liaisons with the consultant project account managers. On rare occasions when program advisors and SMEs may need to advise the Consultant directly, NYSDOT’s program managers will duly inform the consultant project account managers of such authorization(s) if and when they occur. Further details, roles, responsibilities, and functions of NYSDOT program managers, program advisors, subject matter experts, and consultant project account managers will be provided to the selected Consultant when work commences under this contract.
In case the consultant will receive conflicting directions from various NYSDOT managers/SMEs, the consultant shall bring the particular issue up with either the NYSDOT’s Policy & Planning Division or the regional manager that the consultant reports to and follow his/her directions. It is the responsibility of the NYSDOT’s Policy & Planning Division program manager and the regional program managers to resolve the internal issues and provide clear guidance to their respective consultant.

7. Contract Amendments: NYSDOT’s Policy & Planning Division program manager shall be responsible for the execution of all amendments to C031290. NYSDOT’s Regional program managers shall be responsible for initiating the annual Region-specific updates to C031290. NYSDOT’s Policy & Planning Division program manager shall be responsible for initiation and execution of all task order assignments under C031290. NYSDOT Contract Management Bureau will assist with all of #7’s actions and will be responsible for final execution of all formal C031290 amendments (i.e., supplemental agreements requiring agreement NYSDOT and the selected Consultant and approvals by the NYS Attorney General’s Office and the NYS Office of the State Comptroller).

**Project Locations**

Tasks assigned under this contract effort shall be in those counties located in each of the three downstate NYSDOT Region 8, Region 10, and Region 11 governing jurisdictions. Specifically, the counties included in these Regions are: Region 8 – Westchester, Rockland, Putnam, and parts of Orange, Dutchess, Ulster, and Columbia; Region 10 – Nassau and Suffolk; and Region 11 – Kings, Queens, New York, Bronx, and Richmond.

The consultant shall establish an office in each of the three downstate regions and staff it according to the regional requirements.

Tasks of inter-downstate regional, non-downstate region, and/or statewide significance may be assigned in any county of New York State.

**Attendance at Meetings Protocols**

The selected Consultant shall attend and participate in meetings at the request of NYSDOT’s Policy & Planning Division Program Manager, Regional Program Managers, or their designated representatives. These may include meetings with NYSDOT management and/or staff and information meetings with other public agencies, groups, or private individuals. Clear and comprehensive meeting notes of any meeting shall be developed by the selected consultant(s) within a reasonable time period, unless otherwise indicated by NYSDOT’s program managers that such notes are not needed.

**3.4 Scope of Services**

The selected Consultant shall be responsible for developing, deploying, providing, maintaining, performing, managing, and/or complying with the following discrete Tasks:

**Task 1 -- Ongoing Management and Administration of Services**

The Consultant shall develop and propose a management structure and framework to support the integrated delivery of common program elements along with Regionally-managed tailored outreach and program delivery. Products and services shall include all ongoing management and administrative tasks under this item, including but not limited to:

a) Developing, implementing, and maintaining TDM and ADM strategies, products, and
services delivered under the existing 511 NY Rideshare program, brand, and related
partnership programs in accordance with established implementation and work plans,
outreach campaigns, marketing activities, and other strategies to promote alternative
transportation programs. This shall be done through methods that include but are not
limited to personal contacts, brochures, mass mailings, public presentations, special
employer events, public relations, the media, web-based services and social media;

b) Managing and administering delivery of TDM services and facilities via third party
contract or lease, where applicable (vanpool program, park and ride facilities, guaranteed
ride program, etc.).

c) Developing and managing work programs and related contractual documents and
assuming responsibility for managing all consulting services to address the terms
stipulated by this contract’s scope of services;

d) Managing, recording, and reviewing data collection efforts and related methodologies in
concise and functional formats and disseminating such data;

e) Representing NYSDOT at meetings, special events, and media events on an as needed
basis and as assigned;

f) Organizing, attending, and/or participating in special events and promotions advocating
and promoting the use of transportation alternatives;

g) Establishing and maintaining effective relationships with local, state, and federal agencies,
employers, and other parties to develop alternative transportation programs and resolving
other transportation issues on an as needed basis;

h) Developing and implementing annual work and communication plans that include
promotional strategies, educational strategies, and local partnerships on the use of
alternative modes;

i) Performing, supervising, and/or engaging in agency, partner, and stakeholder
communication, outreach, and participation on an as needed basis;

j) Performing regional needs assessments and program evaluations on an as needed basis; and

k) Performing professional, administrative, and invoicing duties and all other responsible
work as stipulated by the terms of this contract and related work plans developed under
this contract.

l) Capacity of the firm to assume increased workload; provisions for permanent office and
support services in the Downstate regions and management of sub consultants.
Demonstrated capability to first-instance (reimburse) all third party contracts and expenses

**Task 1 Deliverables:**

- Detailed Project Management Plans (PMPs)
- Annual Work Programs
- Quarterly/Monthly and Annual performance reports

These deliverables shall be structure to efficiently reflect the integrated service development and
delivery framework of a Statewide, with integrated/shared program elements and Regional
funded, managed and tailored programs.
Task 2 – TDM and ATDM Program Development

One of NYSDOT’s goals is to provide specific opportunities and strategies that build on TDM and emerging more dynamic ADM and ATM to develop an integrated ATDM Program. The intent is to flexibly and dynamically use these tools and strategies to address the need to reduce transportation congestion, improve mobility, improve system operations during incidents, emergencies and large events, improve air quality and improve sustainable economic growth, quality of life. One way NYSDOT seeks to achieve these goals is to broaden the scope of TDM to travel choice (to travel or not), mode choice (how), time choice (when), location choice (where & whether), and route choice (which way). A key focus is moving people rather that moving vehicles by maximizing the efficient use of the State’s transportation capacity. NYSDOT seeks to achieve this mission focus through the development and deployment of integrated ATDM strategies and initiatives.

Various TDM and ADM products and services such as the traditional toolbox of standalone programs such as carpooling, vanpooling, employer funded shuttles and guaranteed ride home programs, increased promotion of transit use, increased promotion of walking and bicycling, use of subsidies and other incentives, telecommuting, leveraging social media marketing platforms, park-and-ride management, etc. shall continue to be developed and delivered. However, NYSDOT is seeking to expand the application of TDM during this contract period to encompass the benefits of broader integrated ATDM strategies that:

a) Links TDM, ADM, and ATM to project prioritization efforts and funding (e.g., Advanced Traffic Demand Management/Integrated Corridor Management in managed use lane (MUL) priority corridors and other capacity constrained high volume locations);

b) Integrates TDM, ADM, and ATM into operations plans, strategies, and other programs (e.g., New York’s Driver’s First initiative);

c) Leverages and enhances the functionality and use of the 511 NY traveler information portal;

d) Provides strategic marketing for 511 NY where it applies to this ATDM program.

e) Develops strategies/tactics to improve the awareness of 511 NY Rideshare by using state, local partnerships, social media, and mobile technology/Smartphone applications including efforts that spur innovations by the private sector and other entities.

f) Utilizes where possible the development of unique grant/demo programs opportunities to incentivize greater private sector and employer participation in alternative commuting arrangements;

g) Establishes employer transportation districts (ETD) that provide for compacts, sharing of responsibilities, and the customization of specific TDM and ADM products and services unique to localized target markets and clusters of different customers with specific needs;

h) Provides support and disseminates information related to special events, incident management, and other non-recurring events (e.g., Tropical Storm Sandy, US Open, NY State Fair, etc.);

i) Provides support for enhanced operations and the coordinated development of emergency preparedness plans, strategies, and communications during emergencies and evacuations;
j) Increases collaboration with other state and/or local agencies to leverage TDM, ADM, and ATM investments (e.g., assessing options and partnerships with public health departments, economic development agencies, historic preservation agencies, and others to leverage benefits consistent with New York’s Smart Growth Infrastructure and Complete Streets laws);

k) Supports improved TDM products and services to the mobility impaired and senior citizen markets (e.g., enhanced human services coordination and mobility management in collaboration with health and human services agencies and organizations);

l) Identifies opportunities to improve regional coordination in service provision that better links transit, ridesharing, and related services (e.g., by improving operational coordination and integration of existing services such as transit, ridesharing, bikesharing, carsharing, and pedestrian network information that enhances multimodal connections and supports full connectivity); and

m) Any future TDM related programs pursuant to any new federal legislation or State legislation/Governor’s order.

Task 2 Deliverables (Regional Program Deliverables):

- ATDM Development Work Program
- Document and maintain an ATDM Operational/Incident Framework of best practices, incident/corridor/event playbooks and protocols gathered from development/post implementation assessment of each ATDM deployment.
- Documented results of ATDM deployments incorporated into TASK 1 reporting.

Task 3 -- Local/Regional Customization of TDM Program Content/Services

The economies-of-scale and integration objectives of this program have as an explicit objective to provide Regional TDM programs with efficient and economical means of customizing and tailoring TDM and ADM delivery to local travel markets, infrastructure, and services. With this need to provide unique, customized TDM and ADM products and services integrated with ATM activities, the selected Consultant shall:

a) At the direction of the respective NYSDOT program managers in NYSDOT Regions 8, 10, and 11 develop a suite of TDM and ADM products and services tailored to each specific Region that satisfies overall visions, goals, objectives, and work plans;

b) At the direction of Regional program managers, develop the Action Plan to implement the Regional programs. The Action Plan shall assess existing programs; identify recommended strategies for local customization of TDM/ADM tools and services, dependencies that require strategies to be implemented in specific order or concurrently, implementation costs and a detailed timeline. The Plan must include measurable objectives;

c) Under these Action Plans deliver Regional TDM services that may include ridematching support, management of vanpooling programs, Guaranteed Ride and incentives programs, park and ride lease and promotion programs, employer or community TDM site analysis, etc.
d) Evaluate the proposed strategies to estimate the TDM Programs benefits in terms of vehicle trips reduced, VMT reduced and greenhouse gases reduced, personal trip reliability improved, person travel time reduced. Identify metrics and approaches for evaluating the effectiveness of various TDM strategies;

e) Conduct best practices research on topics that may be unique to Regional program deployment or delivery. Include an overview of programs that work in similar areas of the country; and

f) Abide by pre-established communication protocols that will be developed by the aforementioned NYSDOT Regions and Main Office in the way localized/regional products are developed, coordinated, and delivered and how billing invoices are developed, processed, and paid. These communication protocols will be provided to the selected Consultant when work commences under this contract.

Task 3 Deliverables:
- Action Plans
- Detailed Implementation Plan
- Cost-Benefit Analysis Report
- On-site events at the employer’s worksite to educate commuters about TDM/ADM/ATM
- Customer feedback reports and analyses of programs to better meet the employers’ needs

Task 4 – Integration of 511 NY Portal and Related TDM and ATDM Products and Services

NYSDOT provides static and real-time commuter, traveler, and transit service information via its www.511NY.org program. 511NY is accessed via telephones, online, and other personal communications devices and realized through locally deployed, interoperable communications systems and providers. While the primary 511NY interface, hardware and software development, and/or related improvements; phone service and other communication device switching and expansion; and broad marketing products and services are provided via other independent contract services, the selected Consultant shall be responsible for providing additional support functions related to:

a) Managing the coordination and integration of content and functions provided by the online ridematching system (described below) and other TDM content provided via the 511 NY portals (web, mobile, phone, widget, etc.). The 511NY portal provides public access to TDM program resources such as the existing and operational ridematching system, Clean Air NY, and modal information on park and ride and transit services;

b) Linking and coordinating integrated content of 511NY with other unique national and/or regional databases such as the NITTEC, TRANSCOM, transit and modal database and support tools (see Task 10), NYSDOT and other statewide or regional transportation management centers, and the Clean Air New York (CANY) program (described in Task 6 below and in Attachment 14 Clean Air New York (CANY) Program)

c) Where appropriate and useful to customers, integrating subscriber information across the Ridematching System, CANY and 511NY subscriber oriented services and alerts;

d) Coordinating the development and enhancement of alert and notification tools that provide enhanced integrated traveler information and more specifically information related to
public transportation – including dissemination of schedule itineraries, fares, time estimates, and interactive maps;

e) Developing 511NY marketing, outreach, and/or promotional components, supplementing other marketing efforts undertaken via other 511NY related contracts, that provides an effective means to increase the awareness of and user functionality of 511NY regarding TDM and ATDM services and information; and

f) Supporting development and deployment of TDM services in partnership with Upstate New York TDM partner agencies (Metropolitan Planning Organizations, transit agencies, local government, large employers, event or emergency managers, etc.),

Task 4 Deliverables (Regional Program Deliverables):

- Host, operate, maintain and manage the content of the 511NY Rideshare WebPages including access to Regional and partner agency pages and portals and the RMS, park and ride map, Clean Air Program and other systems and functions managed under this contract.

- Coordinate with the 511NY contractor to ensure that all integrated links, feeds and content are available and perform consistent with the 511NY Rideshare Ridematching System Performance Requirements (included in Attachment 15 of this RFP)

- Development of integration work programs, coordination meetings, collaborative design activities with 511NY contractor and other partner agency program managers (transit agencies Metropolitan Planning Organizations, employers, corridor managers, etc.) and deployment of tailored 511NY Ridesharing tools and portals.

- Promote via integrated marketing usage of the 511NY Rideshare website to Regional businesses and organizations

- Promote availability of and customize delivery of localized employer, event and emergency TDM/Ridematching System portals

- Register and promote/encourage commuters to use the ridematching system trip logging function enter their trip and usage information into the 511NY Rideshare website.

Task 5 – Online Ride-Matching System Management and Support

NYSDOT, as a core element of the existing integrated TDM Program, has implemented a TDM ride-match system in the New York City metropolitan region (i.e., NYSDOT Regions 8, 10, and 11. This ridematching system and the custom portal tools for making it available to a wide range of users is actively deployed and in use by employers and partner agencies throughout the state (Attachment 16 provides a list of active portals at the time of this RFP). Maintaining the service continuity to these customers is a requirement of this contract.

NYSDOT retains the intellectual property to the existing ride-matching system (RMS) and intends to continue utilizing and further enhance and integrate this existing operational tool under this contract.

The RMS is a non-proprietary web-based ride-matching and commuter management ADM application utilizing open source tools and platforms,. It is flexible, robust, and comprehensive,
and designed to meet the needs, user preferences, and specifications of various organizations and clients. It provides a secure, stable, and flexible web-based interface and application with robust reporting and administrative features. It uses the open source tools to geocode customer addresses and preferred travel destinations, display matches on a custom-designed map.

The RMS is a customizable software platform that is seamlessly integrated with 511NY Rideshare’s current web branding and design structure. Being a non-proprietary and built upon open source platforms, there is an expectation that the tool will continue to evolve to support customer and partner organization needs and objectives. Operation, maintenance and customer support for the RMS shall be provided under this Task.

The RMS Software Platform system architecture and technical operational parameters, based on readily available open source tools, standard languages and documented features and functions, are described in Attachment 17 of this RFP. NYSDOT anticipates that proposers will include technical capabilities necessary to operate, maintain and as necessary enhance function and performance of the RMS in response to changes in technology or emerging customer needs and preferences.

The selected Consultant shall be responsible for operating, maintaining, and as needed, adapting, modifying, and enhancing the RMS platform for new customers throughout New York on an as needed basis and as directed. The implementation process shall involve the following components as needed:

a) Providing technical support, as needed, for the existing subscriber base of individuals and institutional partners (employer portal and web widget installations);

b) Providing technical support to partner organizations for new local installations of customized RMS (employer portal or widget, special events, or emergency management module);

c) Modifying and customizing the basic platform incorporating key component features desired by clients/stakeholders;

d) Conducting initial testing of customized platforms after enhancements are made;

e) Providing training and documentation that enables administrators to rapidly deploy the RMS rideshare services in desired service areas;

f) Developing, deploying and supporting localized and customized versions of the RMS rideshare application, co-branded with 511NY, within other metropolitan areas and rural counties throughout upstate New York. This shall involve rigorous coordination with affected stakeholders that reflect the integrated deployment needs of the localized areas;

g) As warranted, integrating the new/emerging traveler info streams (from 511NY or other sources) within RMS delivery of integrated content to users. ;

h) Developing and implementing varied marketing elements for the localized deployment of 511 NY Rideshare; and

i) Providing program level technical and operational support for a TDM partnership program outside of Regions 8,10 and 11 to deploy and market the 511NY RMS tools as part of local or regional TDM initiatives in New York. This includes maintaining continuity of service for existing partners and users during any project transition under the new contract.
Should any new IT work be requested during C031290’s term, NYSDOT Project Manager shall coordinate with NYSDOT’s Information Technology Services ITS processes and procedures to ensure that all pertinent IT policies are adhered to in the development of any significant project IT work. Further, should this be the case, the selected Consultant shall adhere to the New York State Project Management Guidebook Release 2 for any significant IT project development work under C031290. It is required that prospective proposals submit IT project management methodology and IT resources. The New York State Project Management Guidebook Release 2 can be obtained from: http://www.cio.ny.gov/pmmp/guidebook2/index.htm. It is possible that during the delivery of C031290 services, the selected Consultant maybe responsible for complying with New York State Office of Cyber Security (OCS) Policies, Standards and Guidelines, which are available at: http://www.dhses.ny.gov/ocs/resources/. The latest version of the Information Security Policy P03-002 is available at: http://www.dhses.ny.gov/ocs/resources/documents/Cyber-Security-Policy-P03-002-V3.4.pdf. The selected Consultant may also responsible for notifying NYSDOT of any security breaches. Details about the NYS Information Security Breach and Notification Act are available at: http://www.dhses.ny.gov/ocs/breach-notification/. NYSDOT Information Security Policies are available upon request to the selected Consultant.

Task 5 Deliverables:

- Operation and Maintenance of the RMS consistent with the 511NY Service Level Agreement (SLA) attached as Attachment 14.
- Provide technical and operational support with regard to the employer portals establishment and administration.
- Provide training to the field staff, as appropriate.
- As needed development of RMS enhancement or customization work programs for development of additional or enhanced system functionality or performance in response to customer/partner feedback or technological advancements during the contract period.

Task 6 -- Integrated 511 NY, Clean Air, and TDM Messaging, Area-Wide Marketing and Promotion (Education & Outreach)

The Clean Air New York (CANY) program, previously called the Ozone Action Days program, has operated predominantly in the New York metropolitan area since 1997. Over the years, the CANY program implemented a range of marketing and outreach activities, working with employers, individuals, and other partners to raise public awareness of air quality issues and encouraging actions to reduce air pollution during Air Quality Action Days. CANY became a year-round, air quality outreach program in 2007. As part of an intensive effort to reduce mobile source emissions in the New York metropolitan area, NYSDOT committed to enhancing and expanding the New York metropolitan region’s CANY program in order to achieve quantifiable, on-going reductions in motor vehicle emissions.

Since 2012 NYSDOT embarked on an effort to transition the CANY program to an incorporated element within the 511NY brand and web portal. All components of the CANY program – technical functions, services, messaging, and branding – are being integrated into a 511NY Clean Air program to promote cost efficiencies and program synergies.

This new 511NY Clean Air program, to be developed and managed under this task is intended to focus primarily on air quality attainment needs of the New York metropolitan area but will have a statewide profile consistent with the 511NY program. The 511NY Clean Air Program development and implementation will be based upon elements of the 511NY Clean Air Transition
Plan included as Attachment 15 of this RFP. As the Plan describes there are many program synergies between the Clean Air program objectives and the overall TDM Program. The integration envisioned at the program marketing level will be mirrored by technical integration of web content, features and functions under this contract.

The following elements are the primary focus of the 511 NY Clean Air program:

a) Identifying and incorporating similar information flows, data management tools and procedures, roles and responsibilities, and technical needs associated with the information outlets/channels served by the former CANY program with existing and planned platforms within the 511NY system in ways that produce synergies and economies-of-scale between the two platforms;

b) An integrated marketing plan that promotes year-round clean air messaging through employer and public education and providing information about connections between travel choices, multi-modal options, and air quality primarily in the New York metropolitan area but also at a statewide level; The plan should contain other regional and stakeholder agency involvement including identification of key target audiences, touchpoints, delivery mechanisms, and strategies;

c) Defining a communication strategy and identify opportunities to incorporate clean-air messaging and tools into the overall 511NY communication strategy and existing 511NY tools;

d) Fully leveraging the broader TDM program by developing and implementing employer and individual outreach initiatives, efforts, and delivery strategies targeting work, non-work, various demographic groups, and home based settings;

e) Development and implementation of public outreach efforts and strategies that include but are not limited to a 511NY portal promotion (see Task 4 above) that educates the general public about air quality issues, the link between travel choices and air quality, and steps the public can take that encourages changes in travel behavior;

f) Development of partnership building strategies and activities that support the 511 NY Clean Air program, financially and non-financially;

g) Development and support of a 511 NY themed clean air messaging strategy that potentially includes logo, campaign messages, and ‘feel’ of the program;

h) Development and implementation of project tracking tools and communications protocols; and

i) Development and implementation of required 511 NY Clean Air program methodologies and procedures to evaluate and assess the integrated program brand, performance, delivery strategies, and other program efforts.

In addition to the 511NY - Clean Air program integration NYSDOT desires to supplement and complement expanded marketing by developing and deploying Area-Wide or Statewide Marketing and Promotion (Education & Outreach) under this task:

a) High impact, low-cost 511 NY promotion, marketing, and outreach action initiatives, with particular emphasis on leveraging social media;

b) Expansion of information/marketing initiatives that leverage existing technologies, such as web-based and Smartphone applications; and
c) Clean air messaging that better helps commuters, travelers, and the business community to reach their destinations by using more sustainable travel options

**Task 6 Deliverables:**

- Develop and deliver an integrated 511NY Clean Air Program webpage accessed via the 511NY website based upon the 511NY Transition Plan included as **Attachment 15** of this RFP
- Develop Marketing Plan with a strong emphasis on leveraging low or no cost social media platforms and targeted outreach
- Perform marketing, as directed by NYSDOT, until a successor marketing plan is adopted
- Planned media buy schedule
- Ad campaign creation
- Measure effectiveness of the marketing campaign (ROI), as directed by NYSDOT

**Task 7 -- Local/Regional Outreach and Promotion**

NYSDOT has a long established commitment to providing locally and regionally customized/tailored TDM products and services. The 511NY Rideshare program and its predecessor Regional TDM programs have established an active employer outreach program to assist in promoting carpooling, transit, tele-work, walking and biking to reduce single occupant vehicle travel and enhance mobility.

A significant focus of these programs has been an effective outreach and promotion of TDM products, services and modal travel options. Each Regional TDM program has supported outreach to employers and communities to encourage participation in services such as ridematching, guaranteed ride, vanpool, trip logging and transit/carpool incentives. The effectiveness of these programs is rooted in a strong understanding of the travel market, employer/employee travel needs and excellent customer service and outreach practices. Local outreach and promotion programs under this contract will include the establishment of performance goals with the intention of provide incentive-based payment for meeting and exceeding these goals.

NYSDOT seeks to continue and build on this localized and regionally based marketing and outreach approach by:

a) Conducting effective outreach activities to engage employers and travelers in making use of the program tools and services to reduce their reliance on single occupant vehicle travel.

b) Identifying marketing challenges, developing successful marketing systems, and enhancing the power and awareness of a unified 511 NY Rideshare brand and operational plan that connects with the intended customer, market, or initiative (e.g., event-based and Drivers First projects);

c) Maximizing marketing resources by segmenting markets appropriately to create unique messaging and positioning strategies that are meaningful to commuters and travelers and reflect region-specific markets (i.e., meeting the needs of clusters of different customers with different and unique needs);

d) Driving targeted customers to try TDM and ADM products/services when the need arises
(e.g., event-based marketing) and monitor customer satisfaction;

e) Developing and monitoring the mix and success of TDM and ADM marketing strategies and tactics that attract new and targeted customers;

f) Developing low-cost marketing tactics that provide value and are effective to meet the needs of employers; that is, demonstrating a clear return on investment (ROI) with defined measurements;

g) Using labor market information (LMI) resources, industry coalitions, and transportation advocacy groups (e.g., transportation management associations) as effective marketing tools;

h) Exploring cause-related marketing opportunities (i.e., co-branding partnerships and associations that link private sector employers, businesses, and industry associations and a cause that achieves mutual benefits); and

i) Defining appropriate strategy; budget and funding sources and opportunities; staff; follow-up; and tracking of results that address real and potential marketing challenges.

Task 7 Deliverables:

- At the direction of the respective NYSDOT program managers in NYSDOT Regions 8, 10, and 11 visit a specified number of companies in each region per year for the purpose of establishing ridesharing commuting modes.
- Provide on-site program development, support and technical consulting services to newly recruited employers, including surveys and site assessments to establish baseline information.
- Provide ongoing support to the existing TDM program participants in order to ensure their continued involvement in ridesharing.
- Explore feasible locations for and establish employer funded shuttles.
- Promote, demonstrate, and provide support for the new 511 NY Rideshare portals at employers/employment sites
- Revisit closed out grant employers/employment sites in order to ensure the continuation of a commuter alternatives program
- Monthly Progress Meetings
- Quarterly Performance Reports

Task 8 – TDM/ATDM Program Customer Support

In the NYC metropolitan area (Regions 8, 10, and 11) NYSDOT operates a consolidated TDM program customer center that provides essential support for its 511 NY Rideshare Program, program registrants, and 511 NY Interactive Voice Response (IVR) phone transfers seeking rideshare assistance. This consolidated customer service center handles incoming and outgoing customer calls, assisting commuters and travelers in New York in participating in the range of TDM and ATM products and services that NYSDOT delivers. The customer support function may also handle specific customer account inquiries, customer complaints, and other support issues. The primary operations and support functions include but are not limited to:

a) Customer support on registering for or managing program service accounts and transactions including carpool and vanpool matching, availability of incentives,
guaranteed ride home services, bike locker, park and ride permits, etc.;

b) Real-time operational management regarding inquiries (incoming and outgoing) relative to
the TDM and ADM product and information services and management

c) Coordination of related ATM initiatives and reporting with transportation management
centers (TMCs), transit agencies, etc; on overall transportation system status, including
coordinating social media strategies and communications regarding transportation system
status with 511NY, Drivers first and partner agencies.

d) Complaint management, quality assurance and control, problem resolution, and special
services related to subscriber content

e) Reporting, data collection, and analytics relative to customer queries, trends, and customer
relationship management

Task 8 Deliverables (Regional Program Deliverables):

- Periodic evaluation of the effectiveness of the Customer Support Center
- Provide recommendations for improvements based upon evaluations

Task 9 -- Modal Service Information Management & Support

NYSDOT’s objectives for TDM and ATDM include actively facilitating the increased use of
modes other than single occupancy vehicles. The 511 NY and 511 NY Rideshare portals reflect
these objectives by integrating data, tools, and services that support public use of these alternative
modes. The TDM and ATDM program shall provide management, support, and leveraged
development of modal information and content.

NYSDOT, in cooperation with public transportation providers in New York State, developed and
currently maintains a statewide transit trip planner via its www.511NY.org program. Statewide
transit service information data is managed in support of 511NY using web-based data
management tools and via transit supplied General Transit Feed Spec (GTFS) files. NYSDOT
also maintains a statewide database of park and ride locations that support a Statewide Park and
Ride mapping capability integrated into the 511NY Rideshare website and RMS tools. In addition
to these Statewide resources other information and materials have been developed regarding other
modal assets available at the Regional level (bike route maps, HOV lane customer guides, new
transit services, etc.).

To support the effective development and evolution of modal service information the selected
consultant (s) shall provide management and support for:

a) Maintaining and updating, in collaboration with NYSDOT’s partners and stakeholders,
park and ride location information in NYSDOT database that includes 1) access to
connecting modal alternatives (transit, rail, vanpool services, etc) and 2) types of
amenities that facilitate greater commuter and traveler use of park-and-ride facilities and
participation in modal alternatives;

b) Coordinating with NYSDOT’s other 511 NY contractors/vendors on the management and
use of transit schedule and service information including the provision of tools and
resources that present tailored route or service information as an element of ATDM or regional/local customizations;

c) Maintaining and updating, in collaboration with NYSDOT’s partners and stakeholders, the supply of access mode information related to 1) transit access points, 2) bicycle/pedestrian commuting facilities, 3) bikesharing locations and loading docks, and 4) carsharing hub locations; and

d) Supporting modal information elements of TDM partnership in Upstate areas outside of Regions 8, 10 or 11.

Task 9 Deliverables:

- Ensure that all modal service information posted on the 511NY Rideshare website is accurate and up-to-date,
- Manage, in coordination with 511NY and other NYSDOT contactors, modal data updates for transit, park and ride and other TDM assets.

Task 10 -- Program Performance Monitoring, Evaluation, and Reporting

NYSDOT desires accountability and the prudent use of scarce available funding resources. It also seeks to know if funded TDM and ADM programs are successful and how success is being measured and achieved. TDM and ADM performance measurement and evaluation is important in order to demonstrate the effectiveness, fairness, and equity in how programs are funded and deployed. Coordinated, regional TDM and ADM programs require standardized measurement and evaluation to determine the overall effectiveness of NYSDOT’s varied TDM and ADM programs, 511 NY, and the 511 Clean Air programs but more so the impact on overall travel behavior and air quality. Simply, the selected consultant (s) shall specifically identify how TDM and ADM efforts will be monitored, measured, evaluated, and reported relative to:

a) Performance evaluation -- refers to the monitoring and analysis process or methodology that will be used to determine how well policies, programs, and projects perform with regard to their intended goals and objectives. Performance shall be evaluated based on the following broad parameters:

<table>
<thead>
<tr>
<th>Performance Measure</th>
<th>Purpose</th>
<th>Examples</th>
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| Input Activity Measures         | Shows quantitative data on the number of activities or efforts initiated by the program. Refers to actions or activities that are part of the TDM program. | • Number of employer outreach events held  
  • Number of presentations given  
  • Number of brochures distributed  
  • Number of calls made by sales staff to businesses  
  Number of portals developed |
| Output Activity Measures        | Shows quantitative data on the number of activities or results initiated by the customer or client, often in response to the program’s input activities. Refers to actions or activities on the part of the client or customer. | • Number of hotline calls received  
  • Number of ride match applications (registration) received  
  • Number of web hits online  
  • Number of guaranteed ride home sign ups  
  Number of logged rideshare trips  
  Number of potential users per portal |
b) **Performance Indicators:** Refers to measures of effectiveness and are specific measurable outcomes (examples in matrix above or others) intended to evaluate the progress toward achieving established goals and objectives. Performance indicators shall be selected that accurately reflect goals and identify problems. Performance indicators shall be selected that provide an equitable balance between quantity (reflecting abundant output, magnitude of delivery, or production quantity) and quality (reflecting frequency or degree of participation resulting in optimal user responsiveness); and

c) **Performance Indices:** Refers to the full set of performance indicators within a framework designed to facilitate trend analysis, comparisons, target setting, and use of incentives that facilitates commuter and/or traveler participation in TDM and ADM activities. Proposed indices shall provide a navigation system that indicates where NYSDOT’s TDM and ADM programs are during any given point in time, where it should go, and how to get there. Performance indices shall help identify developing problems and the effectiveness of proposed solutions.

**Task 10 Deliverables**
- Cost-Benefit Analysis Reports
- Program Performance Evaluation Reports (annual; draft and final)

**Task 11 -- Planning, Policy, and Technical Research Task Order Assignments**

Planning, policy, technical assistance, research, and task order assignments will also be made that are more regional, inter-regional, other region, and/or statewide in scope. This task will develop and/or build on the key recommendations and findings of the TDM Statewide Framework -- *Making TDM Work in New York: Action Initiatives to Improve TDM Development and Delivery, May, 2012* -- in RFP Attachment 18] -- and secondarily go ‘beyond the basics’ of commute-based TDM approaches by addressing targeted needs and measures that can be applied to a full spectrum of trip purposes. The following scope elements will constitute the primary focus of this strategy:

a) **TDM and ADM Action Program:** Initiatives that result in an increase in, support for, and deployment of specific, multi-modal measures which ensure the most efficient use of existing transportation infrastructure and services and increase public awareness of TDM, ADM, and other individual, alternative travel choices. These will include but are not
limited to the following:

- Governance, institutional, and process strategies that enhance balanced and prudent program and project development, selection, management, and decision-making consistent with NYSDOT’s overall mission, which can be accessed via: https://www.dot.ny.gov/about-nysdot/mission.

- Strategies that improve, enhance, or increase changes in transportation priorities in favor of sustainable modes

- Targeted strategies that manage or alter transportation demand through modal substitution and improvements, pricing, strategies that reduce trip length, etc

b) Integrated Corridor Management (ICM): ICM is an emerging concept consisting of the operational coordination of transportation facilities and their cross-network connections within a defined corridor. ICM is a means of improving mobility through robust integration and management of major transportation corridors. The scope of these interventions may involve deployment of TDM, ADM, ATM, and other intelligent transportation systems (ITS) technology applications. In other cases the scope may include geometric and alignment interventions (e.g., managed use lane applications). The expectation is these coordinated interventions will result in an increase in transportation system mobility, reliability, safety, capacity, vehicle throughput, traffic flow, functionality, integrity, and overall traveler satisfaction while reducing delays, emissions, and incidents within the corridor.

c) Transportation Sustainability: Initiatives that are concerted, proactive, and collectively frame statewide or region-wide TDM, ADM, and ATM issues in the context of a ‘sustainable transportation’ system. Sustainability, sustainable development, and sustainable transportation have in recent years become focal points in regional and statewide visioning, planning, and development efforts. Some examples include: NYMTC/other MPO agency efforts related to transportation resiliency and coordinated emergency preparedness planning; New York’s Smart Growth Infrastructure and Complete Streets laws; New York City’s PlanNYC; NYS Energy Plan; NYS Climate Action Plan; joint NYSDOT and New York State Energy and Development Authority initiatives that improve mobility and reduce GHG emissions; Cleaner-Greener Communities, Climate Smart Communities, and NYS Regional Economic Council Sustainability Plans.

Sustainable transportation measures and initiatives shall be advanced that better integrate and extend the reach and effectiveness of TDM, ADM, ATM, and managed use lane (MUL) strategies in support of an ATDM program and decision-making structure. This shall be achieved in synergistic ways that mitigate congestion; improve mobility, accessibility, and travel time reliability; save fuel; and reduce energy use.

Task 11 Deliverables:

- Discrete Task Order Assignments will be made via formal assigned scope of work. Each assignment will contain specified deliverables that are appropriate to the assignment.

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5 The idea of a sustainable transportation system is not necessarily a particular end-state or outcome emanating from one or more specific TDM, ATM, or ADM concept strategies but more a collective process for carefully considered, judicious decision-making, and actions that involve strategic coordination of efforts across all initiatives in support of an overall ATDM program.
4. PROPOSAL FORMAT AND CONTENTS REQUIREMENTS

4.1 General

Proposers must submit a complete proposal in response to this RFP, using the format and forms provided in this section and in the RFP’s attachments, responding to all requirements and following all instructions. Respondents will submit a complete, separate Technical and Cost proposals per the RFP’s proposal response requirements (the checklists listed below may come in handy). Submission of a proposal shall construe by NYSDOT as the proposer’s acceptance of the procedures, evaluation criteria, and other administrative instructions in this RFP. Questions regarding proposal formatting are encouraged.

For the purposes of evaluation, each proposal must consist of a separate Technical and Management Proposal and a separate Cost Proposal. Each proposal must be complete in itself in order that the evaluation of both submissions can be accomplished independently and concurrently, and the Technical Proposal can be evaluated strictly on the basis of its technical merits. To be deemed responsive, Cost information shall not be included in the Technical Proposal submittal, and Technical and Management information shall not be included in Cost Proposal submittal.

NOTE: NYSDOT may protect confidential and proprietary information from disclosure to the extent permitted by the Freedom of Information Law (“FOIL”), Article 6 of the Public Officers Law, provided that NYSDOT agrees beforehand to shield the release of proposed information. If an offeror believes information included in their proposal is confidential and proprietary, they must identify those page(s) of their proposal and identify specific proposal information to be treated as “confidential and proprietary”. Labeling all proposal pages as “confidential and proprietary” is unacceptable – such proposals will not be accepted unless the proposer re-labels their proposal to only identify what specific material to shield from public scrutiny. All offerors shall explain the material and substantive reason(s) why this information should be considered exempt from public disclosure under New York State’s FOIL law as practiced. The identification of pages and the reasons for exemption must be included in the Executive Summary portion of your proposal. NYSDOT reserves the right to only consider those FOIL exemption requests for which public release of such information would truly be injurious to a firm.

Proposers must deliver proposals to NYSDOT Contract Management Bureau no later than 2:00 PM ET on November 6, 2014. Proposers mailing proposals should allow sufficient delivery time to ensure timely receipt of their proposal in NYSDOT Contract Management Bureau’s offices.

4.2 Proposal Formatting

In order to promote uniformity of preparation and review, proposals must adhere to the following requirements:

- Proposals shall be submitted in three-ring binders. Do not submit proposals bound in any other way (e.g., stapled, spiral- or cloth-bound are not permitted).
- Clearly label any attachment with the proposer’s name on a cover sheet that is firmly attached to the document. Also add the RFP name and contract number.
• Clearly label any unattached documents with the proposer’s name on the cover page of the document. Also add the RFP name and contract number. It is preferred that that each response section be separated by a labeled tab page.

• Electronic or fax submission of proposals is not allowed

• Proposals must be printed on standard 8½ by 11-inch white paper. Pages can be printed double-sided. Color printing is allowed. Larger sized 11 by 17-inch ‘fold-outs’ are permitted (provided the binding does not prevent folding out).

• Proposals must be organized in accordance with the format set forth in the RFP document.

• Proposal text should be 11 point font or larger, except where necessitated for readability of tables, figures, schedules, or special graphics. Twelve (12) point font is preferred. Please avoid printing schedules using fonts smaller than 8 point.

• Proposals must be self-contained and not reference web-links. If it is necessary to include web links, it is a response requirement that specific directions be provided regarding how to navigate within the website to access the referenced information. Failure to do this may result in a lowered technical score.

• Illustrations that support the text must be simple and direct and be either sized to fit on 8½ by 11-inch paper or printed on 11 by 17-inch paper as long as the pages are folded to the 8½ by 11-inch size, and can be folded out from the bound spine of the document. Color illustrations and photographs must be reproducible in black and white without obscuring their distinctive information.

• Proposals that make extensive use of color illustrations or photographs, or that include separate brochures or overly elaborate embellishments, are discouraged.

• The proposer shall submit six (6) printed and bound paper copies of its Technical Proposal, and one (1) complete electronic copy of its Technical Proposal on CD/DVD in a Microsoft Office compatible format (Adobe PDF format is not acceptable).

• The Technical Proposal shall be delivered to NYSDOT in a securely sealed package, clearly labeled with the proposer’s name, address, telephone number, and the words “ATDMP Technical Proposal C031290”.

• The proposer shall submit two (2) printed and bound paper copies of its Cost Proposal, and one (1) complete electronic copy of its Cost Proposal on CD/DVD in a Microsoft Office compatible format (Adobe PDF format is not acceptable).

• The Cost Proposal shall be delivered to NYSDOT in a securely sealed package, clearly labeled with the proposer’s name, address, telephone number, and the words “ATDMP Cost Proposal C031290”.

4.3 Prescreening Proposal Submission Requirements

Use this table to help ensure that a complete proposal is submitted.

<table>
<thead>
<tr>
<th>Check Off Box</th>
<th>NYSDOT ATDMS Program RFP C031290 Prescreening Requirements</th>
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<tr>
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<td></td>
<td><strong>TECHNICAL &amp; MANAGEMENT PROPOSAL</strong></td>
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<td></td>
<td>Submit six (6) printed, complete, bound hardcopy <strong>Technical &amp; Management Proposal copies</strong> (one original) and one (1) complete electronic copy (CDs, thumb drives, etc.). Electronic copies shall not be incomplete.</td>
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</table>
|              | The proposer shall submit a signed **Cover Letter** on official business letterhead as part of its Technical Proposal submission. The Cover Letter shall contain the signature of an officer or company official who can be contacted during the proposal evaluation and who is authorized to bind the consulting firm to the resulting contract, its provisions, terms, and conditions. The proposer's Cover Letter shall contain the following information regarding the proposer’s official representative for its proposal (multiple officials are allowed):  
  - Name(s) of proposer’s official representative  
  - Title  
  - Full legal name of company  
  - Address (address from which the firm shall primarily provide ATDMP services to NYSDOT. If multiple offices are involved, include all, identify which one is primary, and describe in summary their respective roles, percentages, etc.)  
  - Telephone number  
  - FAX number  
  - E-mail address(es) of the proposer's representative(s)  
  The proposer’s Cover Letter shall contain the full, legal names of all Subconsultants involved in the proposer’s response (if applicable).  
  The proposer’s Cover Letter shall specifically identify, by proposal page number, line, or other appropriate designation, information it alleges to be a trade secret and shall explain in detail why specifically-identified information is allegedly a trade secret, for the purposes of shielding this information per NYS’s Freedom of Information Law (FOIL). |
|              | The Technical Proposal shall include a **Title Page** identifying the RFP for which the proposal is being submitted and the name, location, and contact person(s) for the proposer's firm. |
|              | The Technical Proposal shall include a **Table of Contents** that reflects the areas identified in Technical Proposal Content. The Table of Contents should identify each major section of the proposal, along with its initial page number. Include/identify any and all external documents or appendices. |
|              | The Technical Proposal shall include a **Statement of Company Background and Experience Section** describing the proposer’s firm. If subconsultants are part of the proposer’s proposal, the Technical Proposal shall include a **Statement of Company Background** describing each subconsultant, providing the same information as required for the prime Consultant. |
|              | The Technical Proposal shall present your proposed **Project Management Approach.** |
|              | The Technical Proposal shall present your proposed **Scope of Services.** |
### NYSDOT ATDMS Program RFP C031290 Prescreening Requirements

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<thead>
<tr>
<th>Check Off Box</th>
<th>The Technical Proposal shall include completed <strong>Attachment 7</strong>, to include a Staffing Plan, and Key Personnel Resumes and References per the format specified.</th>
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<tbody>
<tr>
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<td>The Technical Proposal shall include completed <strong>Attachment 6</strong>, to include company reference information per the format specified.</td>
</tr>
<tr>
<td></td>
<td><strong>COST PROPOSAL</strong></td>
</tr>
<tr>
<td></td>
<td>Submit two (2) printed, complete, bound hardcopy <strong>Cost Proposal copies</strong> (one original) and one (1) complete electronic copy (CDs, thumb drives, etc.). Electronic copies shall not be incomplete.</td>
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<td>The Cost Proposal shall include a copy of the <strong>Cover Letter</strong> (provided in the Technical Proposal).</td>
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<td>The Cost Proposal shall include completed, complete, signed <strong>Attachment 8 Cost Proposal</strong>.</td>
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<td>The Cost Proposal shall include a completed <strong>Attachment 3 Procurement Lobbying Law (PLL) Compliance Forms</strong></td>
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<td>The Cost Proposal shall include a completed, signed <strong>Attachment 2 Consultant Information &amp; Certifications</strong>.</td>
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<td>The Cost Proposal shall include a completed <strong>Attachment 9 DBE Participation Information Form</strong>.</td>
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<td>The Cost Proposal shall include a completed (if applicable) <strong>Attachment 10 DBE Subconsultant Participation Solicitation Log AND Letter of Explanation of Non or Partial DBE Goal Attainment</strong>.</td>
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<td></td>
<td>The proposer shall complete and submit <strong>Acknowledgement of all future RFP Modification Acknowledgement Forms</strong> (if any) as instructed.</td>
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### 4.4 Company Experience and Key Personnel Experience

NYSDOT requires relevant experience and expertise, and proposers must demonstrate that experience and expertise through past and current project attestations and reachable, verifiable references. Company references should be provided by completing **Attachment 6**. Key personnel references should be provided by completing **Attachment 7**. The experience must be relevant and must be for services consistent with what this RFP is requesting. NYSDOT understands that there may be a need for a Consultant to rely on one or more subconsultants to satisfy certain specialty requirements. If subcontracting is proposed, it is critical that the proposer demonstrate subconsultant's experience with such an operation, again of comparable scale and scope (desired), and the proposer must demonstrate a sound management plan to ensure subconsultant's compliance with all contract and scope of service provisions. The Consultant is expected to provide reachable references (both company and personnel) to verify all offered experience. NYSDOT reserves the right to request information from any source so named and to contact additional references (including appropriate references not specifically named by proposers) to completely verify all offered experience.
Present, as the first part of your technical proposal, a separate narrative section in your proposal which discusses the following requirements:

<table>
<thead>
<tr>
<th>Company &amp; Key Personnel Experience</th>
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<tbody>
<tr>
<td>The Technical Proposal shall include a description of the proposer’s experience with relevant transportation demand management services to clients of similar size and scope (ideally) to the project described in this RFP. It is important to note if this team has stayed together during these engagements and how/if different personnel have been utilized.</td>
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<tr>
<td>A minimum of one, prior relevant project description should be included in the proposal using Attachments 6 and 7. The Consultant should explain why they consider their experience to be relevant. If subconsultants are part of the proposer’s proposal, the description may include projects conducted by the subconsultant(s). At least one project shall have been conducted by the Primary Consultant.</td>
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<tr>
<td>If subconsultants are part of the proposal, the proposer shall submit at least one company reference for each of the subconsultants for similar services performed.</td>
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<td>The proposer's firm experience description shall include information about the prime firms and its history working with the proposed subconsultants (e.g., nature of relationship, number of engagements worked together, duration of engagements, budget of engagements, percent split between firms), including past experience with meeting contractual DBE or similar goals.</td>
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<tr>
<td>The proposal shall include all relevant information regarding the number, qualifications, experience, and expertise of all Consultant Key staff proposed for this engagement. See below for specific personnel experience requirements.</td>
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<tr>
<td>The proposal shall include Key Personnel resumes and references (as set forth in Attachment 7 of this RFP) for all proposed key personnel (at a minimum; include any subconsultants) that are assigned to the following roles:</td>
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<tr>
<td>• Main Project Account Manager</td>
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<tr>
<td>• Region 8, Region 10 and Region 11 Project Account Managers</td>
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<tr>
<td>The proposal shall include two reachable references for each proposed key personnel. Key personnel references identified in the proposer's proposal shall be English-speaking and available for contact between 9:00 am and 4:00 pm EST. Information for each reference shall include:</td>
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<tr>
<td>• Client name and main line of business</td>
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<tr>
<td>• Name, title, mailing address, e-mail address, and telephone number of primary contact person at the firm</td>
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<tr>
<td>• Dates of service (when the key staff person provided services to the firm or agency)</td>
</tr>
<tr>
<td>The Technical Proposal may include any additional reference information submitted to further support a firm’s technical submission (e.g., a training manual, a relevant sample work product for another client, etc.) and such additional references must be indexed in the RTM submission as well as in relevant locations in the main body of the proposal.</td>
</tr>
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</table>

**Experience Requirements:**
Consultants are encouraged to submit a proposal in response to this RFP depending upon unique skills and experiences that the consultant believes it possesses which may be unique to or can provide needed TDM and ADM products and services integrated with ATM activities that can support an integrated ADTM program and related needs throughout the New York metropolitan region and on a state-wide level, and be fully responsive to all of the requirements of the RFP. In general, this RFP seeks the following experience:
• Experience in developing and deploying operational programs, products, and services that reduce SOV commuting and vehicle miles of travel (VMT) including special attention to congested travel corridors and regions. Experience in developing, utilizing, marketing and monitoring performance of TDM, Commuter Choice and Traveler Assistance programs.

• Experience in public relations, marketing, market research, training workshops, and innovative techniques to promote participation in programs; experience with using on-line applications, computerized dispatching systems, in-vehicle guidance systems, wireless mobile devices and familiarity with the 511 NY platform.

• Experience in funding, developing public private partnerships, grants program administration, corporate based leasing agreements and innovative, flexible pricing, subsidy, and funding sources and mechanisms for capital expenditures and operations.

• Experience in working with legislatures to promote new policies; experience in establishing collaborative relations with other transportation agencies and entities throughout the New York metropolitan region.

• Firm’s understanding of relevant NYSDOT’s program objectives.

• Knowledge of appropriate mixes of TDM/Commuter Choice activities for different traveler, commuter, employee, and employer situations, how effective techniques can be applied and evaluated.

• Demonstrated ability to manage large metropolitan TDM coordination and service delivery programs. Reasonableness of DBE subconsultant participation plan.

• Successful Firm’s experience in TDM services marketing (metro region), public relations, workshop training, computerized dispatching systems, and on-line applications. Experience providing information customized for mobile devices is desired. Firm demonstrates local knowledge/experience of commuting habits of target NYS regions and/or comparable regions or parts of the USA.

• Experience in working with the business community, local / regional organizations, transportation information programs such as 511 NY and TDM programs, transit providers, and other TDM service providers

Regional Program Outreach: The Region 8, 10 and 11 TDM Program Delivery carry distinct experience and expertise requirements:

Region 8: See general experience above and additional experience below.

Region 10: Due to the outreach and customer support focus of Regional Program delivery it is a requirement that Regional Project Account Managers have at least 5 (five) years of sales and at least 5 (five) years of management experience. The field staff, assigned to the regional offices must also have at least five years of the sales experience in any field. Additionally, the managers and the field staff must have customer support experience, with particular emphasis on customer facing interactive technologies or systems.

Region 11: Five years of experience for staff in both outreach efforts relating to creating new/maintaining existing employer/org relationships while promoting the wide range of TDM services including assisting in the development of an maintenance of portals on employer websites and also being able to act as staff in an Operations or Travel Information center providing a wide range of travel information and assistance services.
**Additional Experience**: Staff responsible for outreach should have experience in working with employers including promoting TDM services, such as including employer portals on employer websites with link to designated sites/pages providing ridematching services, TDM assistance to employers through onsite meetings, conference calls, and B2B events within an overall effort to promote TDM service to employers / employees and the general traveling public.

Staff needs to have experience in working in an operations and/or travel information center in providing an initial point of contact in providing a wide range of travel information and assistance services such as ridematching, transit and highway travel services. Staff also needs to demonstrate experience in providing travel assistance and information services during emergencies or travel disruptions and assistance due to weather, strike, special events, etc.

Supervisory Staff responsible for Operations need to have at least five years of experience overseeing the day-to-day operations of both operations and outreach staff including, their assignments and goals; ensuring procedures are maintained; produce monthly reports; and liaison with marketing.

The Project Manager needs to have five years of experience overseeing day-to-day rideshare matching system operations, assisting regional staff with its operation, developing ridematching system monthly reports. Project Manager also needs to demonstrate experience in providing oversight of staff working tech teams as needed on all aspects of rideshare matching system operations, enhancements and troubleshooting; business intelligence development; and portals development. Project Manager needs to demonstrate experience in overseeing all staff activities, including setting operations/outreach policies, P&R manuals, and working with a wide range of private sector and public agencies to ensure the delivery of rideshare/TDM services.

The Ridematching System Management Task carries a distinct set of expertise requirements: As noted in Task 5 description and in Attachment 16, management of the Ridematching System will require technical management responsibilities to ensure 15. 511NY Rideshare Ridematching System Performance Requirements standards (Attachment 15) are met. The RMS is an existing and operational system utilizing open source tools, common languages and database standards (Attachment 17). Maintenance, operation and potential customization and enhancement needs require that the following skill sets be representing in the proposing team:

- Database analyst
- Programmer
- Web content manager
- Network engineer

Under Task 11 -- Planning, Policy, and Technical Research Task Order Assignments NYSDOT intends to scope and issue task assignments pertaining to research, policy or planning needs supporting effective development and delivery of ATDM. Task Assignments may cover a wide array of subject matter relating to actively managing the transportation system. It is critical that the selected consultant team have strong expertise and experience covering a broad range of topics available to complete assignments. Specific areas of experience and expertise that will be may be needed and should be represented on the consultant team include:

- Travel Demand Management planning, policy, service delivery and operations
- Modal planning and analysis (transit, HOV, pedestrian, bicycle and network integration of these modal options)
- Intelligent Transportation Systems – planning, integration and operations in support of multi-modal traveler information, Integrated Corridor Management ICM and ATDM
- Market Research and analysis – market segmentation, demographic and economic analysis in support of effective program design, delivery and market adaptation.
- Marketing and customer service and retention program design and delivery using incentives, effective user interfaces and outreach/engagement strategies.
- Facility and site design supporting TDM/modal options (park and ride, complete streets, employer site features, etc.).
- Performance measurement and evaluation of TDM programs and strategies for congestion relief, air quality, energy consumption, economic competitiveness and livability results.

4.5 Project Management Approach

The proposer shall describe its approach for managing the work, meeting the project and contract goals and objectives, and accomplishing the scope of services as specified in the RFP. Specifically, the response shall include project plans, staffing plans, project schedule, outreach, data collection (if any), data analysis, approach to managing subconsultants (including DBEs), and public involvement.

Present, as the first part of your technical proposal, a separate narrative section in your proposal which describes your proposed Project Management approach. Proposals shall provide a focused discussion on elements and the stated requirements outlined in this RFP. NYSDOT is seeking the best and most cost-effective methods to accomplish, expand, leverage, and enhance the efficiencies of TDM integration that has been achieved over the past five years and introduce a greater range of ADM strategies integrated with ATM activities. NYSDOT is encouraging proposers to elaborate on how they plan to continue and expand upon the traditional and innovative TDM and ADM products and services that have been deployed in ways that produce synergies, economies-of-scale, cost-efficiencies, and greater market reach for the development, delivery, operations, marketing, promotion, and administration of integrated ATDM strategies. NYSDOT views TDM as an increasingly dynamic set of operational strategies to ‘manage’ the demand placed on the transportation system in ways that support the environment, economy, and quality of life.

Proposals shall identify and fully describe an overall TDM program structure that specifically addresses distinct, discrete functions (see Project Description Tasks below) in ways that enable effective transition to more dynamic and integrated ATDM strategies over the course of the contract period. Proposals shall demonstrate proposing Team’s experience and command of the evolving TDM/ATDM subject matter and marketplace by describing their approach to how the following broad components of an integrated ATDM program will be developed, deployed, and operated:
  - Establishing a vision and goals for achieving an integrated ATDM program in New York
  - Setting specific objectives that realize ATDM visions and goals
  - Assessing and selecting TDM, ADM, and ATM integration strategies and programs that support objectives
o Identifying how strategies will be integrated into regional transportation plans and funding programs
o Defining performance measures to monitor achievement of ATDM objectives
o Identifying monitoring and evaluation methods that will be used relative to achievement of specified objectives

In its description of an overall ATDM program structure, proposers shall identify the types of proposed integration actions, the magnitude and importance of these actions in an overall integrated ATDM program structure, policy support needed that leads to the successful deployment of named actions, ease of implementation, cost, time requirements, and overall level of ease or difficulty in deployment and operations.

4.6 Scope of Services

Provide a detailed scope of services which describes your proposed tasks, activities and deliverables. A general scope of services is outlined in RFP Section 3. You may base your scope of services on these tasks, or suggest alternative tasks which could improve the ability of the project to meet its objectives according to your skills, experience and expertise. NYSDOT wants to allow maximum flexibility for the ideas, initiative and creativity of the proposer. Alternative tasks and suggestions are encouraged and will be reviewed with interest within the framework of the stated goals, objectives and scope of the project. Fully explain and justify your approach, however, if significant departures from the general scope are recommended.

Describe the level of interaction contemplated with NYSDOT and other stakeholders, as well as the incorporation of necessary activities NYSDOT staff must accomplish to complete all activities.

Include a schedule for completion of the project showing the duration of each task and all major milestones. Include hours by key personnel by task in this schedule. Do not present any cost, salary or rate information in this schedule.

4.7 COST PROPOSAL SUBMITTAL

The Cost Proposal consists of two sections: (1) a Cost Section, which sets forth all-inclusive lump-sum cost schedule by task for performing scope of services work, and shall set forth a schedule of proposed not-too-exceed fully loaded rates for all proposed Key Personnel; and (2) the Contract Section, which provides the required State certifications and other RFP administrative forms. One original signed Cost Proposal copy, with other copies identified as copies, must be provided.

To be deemed responsive, Cost information shall not be included in the Technical Proposal submittal, and Technical and Management information shall not be included in Cost Proposal submittal. Further, the full cost of a firm’s proposed ATDM Program delivery to NYSDOT for the January 1 to December 31, 2015 time period must be proposed. Failure to offer costs for all proposed to deliver the requested services may result in proposal dismissal. Please

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6 Magnitude is defined as a quantitative or objective measurement that depicts size, greatness, or rank of the potential or real impacts of the named actions. Importance is more the relative, qualitative, or subjective assessment of the named actions that depicts the value or influence that magnitude may or actually generates.
note that for proposal evaluation purposes, the proposed year one total cost shall be multiplied by four to evaluate the full, estimated proposed cost for C031290’s four-year base term.

4.7.1 Cost Section

NYSDOT requires that cost information be presented using the Microsoft Excel spreadsheet included in RFP Attachment 8 Cost Proposal. Proposers must provide both a hard copy for recordation purposes and an electronic copy of each of the worksheets within this spreadsheet as part of their response. PDF is acceptable as long as an Excel version is submitted. The accuracy of calculations and formulas in the spreadsheet are the sole responsibility of the proposer.

The proposer shall include the cost for all labor, overhead and fees as well as all anticipated out of pocket expenses (ATDMP service delivery mechanisms, travel, anticipated meals/lodging, document preparation, remote office space, etc.) to support its proposed ATDMP delivery approach and scope of services.

Your Cost Proposal shall:

1. Include an explanation of the pricing structure and assumptions used in determining all proposed costs included in Attachment 8. The assumptions and the cost basis of estimate must be included in the Cost Proposal. Costs must be specified for all services.

2. Include an explanation of the pricing structure and the assumptions used in determining its costs, as well as how those assumptions relate to the project staffing plan and schedule. Rates are required for all proposed Consultant Key Personnel.

3. Affirm that the proposed cost for all scope of services delivery will remain fixed over the life of the contract (except for those reasonable expected to change – please itemize).

4. Enter the Year 1 not-too-exceed, fully loaded billing rates for each proposed Key Personnel. All proposed Rates shall remain fixed for the entire length of each contract year. Rates for additional contract years are not to be proposed, and may only be adjusted via Article 6.3 Specific Hourly Rates of the draft Contract (RFP Attachment 1), all subject to NYSDOT approval.

5. Provide the number of labor hours per labor category by task and total project cost (total labor plus total out of pocket costs) that form the basis for its proposed cost to deliver ATDMP services.

6. Travel costs, parking fees, tolls, cost of document production/reproduction, costs for ATDMP service delivery mechanisms, and any other ancillary fees and costs necessary to support delivery of all contract services must be itemized and summarized. Reasonable reimbursement for all travel and travel-related expenses shall be limited to current NYSDOT allowances or reimbursement limitations. (Travel necessary to deliver proposed scope of service items must be clearly described in the Technical proposal.)

7. If a proposer indicates delivery of services in its Technical Proposal, the associated delivery costs must be included and explained in the Cost Proposal. All proposed ATDMP service delivery mechanisms must also be presented and fully described in the Technical proposal.

8. Terminology used in the cost spreadsheets for products and services must be consistent with the terminology used in the technical portion of the response.
9. Changes should not be made to the spreadsheet format or formulas, but the proposer may attach additional worksheets or pages to explain and detail its pricing (including any assumptions).

Please note that should there be a delay with the desires January 1, 2015 start date of resulting contract #C031290, the first contract year of C031290 may be the remaining portion of CY2015 (with all subsequent contract years being full Jan 1 to Dec 31 calendar years) with short-term extensions to the current TDM service contracts (C030710 Statewide, C030711 Region 8, C030712 Region 10 and C030713 Region 11) to cover any gap past January 1, 2015.

The Cost Proposal shall be presented as one total fixed cost, with a separate year 1 rate table, and shall include, at a minimum, detailed information defining and explaining the elements and metrics of the Cost Proposal by phase/activity or by task/subtask and by labor. NYSDOT may request a “Best and Final Offer” from any or all proposers during the final stages of proposal evaluation, after conclusion of Technical Interviews.

**Method of Payment:**

Payment will be based on the acceptance of completed deliverables by task or subtask as identified in RFP Section 3/Contract Schedule A, Scope of Service and Contract Schedule B based on use of the Consultant not-too-exceed rates contained in Schedule B. Prior to contract execution, proposed rates are subject to negotiation with the selected Consultant.

Requests for payments shall be made by the Consultant based on standard NYSDOT consultant reimbursement request form FIN 421 ‘Request for Consultant Reimbursement’ forms prepared and submitted, together with the deliverable item for which the payment request is being made. Advance submission of electronic, draft requests for payment is encouraged, using the following sample: https://www.nysdot.gov/main/business-center/consultants/consultants-repository/Consultant%20Billing%20Spreadsheets.xls. The spreadsheet contains all of the proper, required billing forms, as well as a sample billing. The Project Manager will respond via e-mail either with comments/corrections or with an approval to submit the final billing via signed hardcopy.

All vendors are directed to register with the New York State Office of the State Comptroller to receive electronic payments per the Governor’s Directive.

**4.7.2 Contract Section**

1. **PLL Forms**

The Cost Proposal shall include a completed Attachment 3 Procurement Lobbying Law (PLL) Compliance Forms (Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b) and Offerer Disclosure of Prior Non-Responsibility Determinations). These forms are required with the RFP Response Form or if you do not submit an RFP Response Form then the PLL forms are required with the Proposal. These forms are also available at: https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions (Compliance Procurement Lobbying Law). Note: Failure to submit the completed PLL forms with your proposal will result in elimination from consideration for contract award.

The Cost Proposal shall include a completed and signed Attachment 2 Consultant Information and Certifications. All proposing Consultant must indicate their acceptance of all of C031290 Draft Contract’s terms and conditions.
Via submission of a completed and signed Attachments 2, the Consultant shall specifically state its acceptance of all Terms and Conditions, appendices and exhibits contained in Attachment 1 Draft Contract. NYSDOT shall not consider requests to change the draft contract prior to and after consultant selection (except for a few items left blank; to be filled in later). Firms that are considering tendering a competitive proposal are encouraged to ask questions regarding the RFP’s draft contract during the question and answer phase of the solicitation process (before proposals are due). The Q&A period opens with the RFP’s release and closes with the submissions of proposals. Taking exception to the RFP’s draft contract is not allowed. NYSDOT will not entertain questions regarding the RFP’s draft contract brought to its attention after the close of the question-and-answer period. NYSDOT will not entertain exceptions during contract negotiations. The Consultant’s proposal and/or proposed cost must not be contingent upon any draft contract exceptions or project assumptions. During negotiations with the selected vendor, NYSDOT reserves the right to make minor clarifications to the scope of services to be performed under contract #C031290 via Attachment 1’s Schedule A Scope of Services prior to contract execution.

Altering Attachment 2 without the prior express, written approval of NYSDOT is prohibited and will lead to the proposal being deemed non-responsive and subsequently dismissed. Be sure to include the full, legal name of all proposed firms.

2. Disadvantaged Business Enterprise Participation

The Cost Proposal shall include a completed Attachment 9 DBE Participation Information Form. Provide the full legal names of all certified DBE consultants (prime and/or subconsultant).

While not indicative of a proposer’s individual merit (technical excellence, ability, experience, etc.), NYSDOT encourages the participation of certified Disadvantaged Business Enterprises (DBE) in its federally-funded solicitations. The level of DBE participation will be relevant to the process of selecting proposals that will best achieve the overall goals of NYSDOT. Please visit the New York State Unified Certification Program (NYSUCP) DBE Directory for certified Disadvantaged Business Enterprises via: [http://biznet.nysucp.net/](http://biznet.nysucp.net/). Further, NYSDOT has posted its final draft DBE Program Plan to its website (subject to change). The draft plan provides background information regarding how NYSDOT conducts its Federally required DBE program, covering such subjects as contract-level goals, good-faith efforts by consultants, and DBE certifications, and is available via: [https://www.dot.ny.gov/main/business-center/consultants/consultants-repository/2010_dbe_draft_plan.pdf](https://www.dot.ny.gov/main/business-center/consultants/consultants-repository/2010_dbe_draft_plan.pdf).

NYSDOT has established a DBE participation goal of Eighteen (18%) percent for this solicitation. The goal relates to the total contract dollar amount (total cost/total project budget).

A subconsultant who is certified (at the time of proposal submission) as an NYSUCP DBE must provide meaningful participation (commercial useful function) in the delivery of ATDMP services in order to count toward the DBE subconsultant participation contract goal. Participation by DBE prime Consultants is encouraged but will not count toward meeting the 18% contract goal (will count towards meeting NYSDOT’s corporate DBE goal). Meaningful participation is defined as providing commercially useful functions or services, either as delegated tasks or as a part of the services being provided by the prime. These services should result in significant tasks that can be considered commercially marketable.

Firms that offer a proposal under this solicitation may meet or exceed the 18% DBE contract goal. To count toward C031290’s 18% DBE contract goal, any offered DBE firm must be currently NYSUCP DBE Directory certified. Out-of-state DBEs are not automatically acceptable and must
be acceptable to NYSDOT before proposal submittal (successfully go through New York State’s DBE certification process).

The Cost Proposal shall include a completed (if applicable) **Attachment 10 DBE Subconsultant Participation Solicitation Log** AND Letter of Explanation of Non or Partial DBE Goal Attainment.

If the proposal does not meet the **18% DBE participation contract goal**, the firm must provide acceptable evidence of a good-faith effort by completing **Attachment 10 DBE Subconsultant Participation Solicitation Log**. Additionally, **if the firm does not meet the 18% DBE contract goal**, the firm must include in its submission a **DBE Goal Attainment Explanation Letter** explaining why the firm was unable to meet the DBE goal (in full or in part), which serves to substantiate the firm’s good-faith effort. The letter should include sufficient justification as to why the goal was not met or was met only partially. It should also, at a minimum, address the following factors: the potential firm’s method of accomplishing the work; the reason(s) why part of the prime Consultant’s work cannot be provided by a DBE; the subcontracting opportunities associated with the proposed approach and scope of services; and the availability of certified firms for the work to be performed either by a Prime Consultant or via subcontract. Prime consulting firms are reminded that DBE participation can be via delegation of discrete commercial useful functions and via provision of part of the work being provided by the Prime Consultant.

Additionally, any Prime Consultant certified as a DBE who submits a proposal is not relieved from seeking participation of certified DBEs for sub-contractible services in this solicitation (failure to acceptably comply with the RFP’s DBE requirements could lead to proposal dismissal). In these situations, it is a proposal requirement that unless DBE outreach efforts by the Prime result in proposed DBE subconsultants, the Prime Consultant must provide acceptable evidence of a good-faith effort by completing **Attachment 10 DBE Subconsultant Participation Solicitation Log** to be deemed responsive.

Firms are advised to refer to RFP Section 5 for the procedure NYSDOT will follow in evaluating a firm’s proposed DBE participation. During the review process, which will include examination of the adequacy and the robustness of a firm’s Good Faith Effort evidence, if it is determined by NYSDOT that the firm did not provide an acceptable Good Faith Effort, then the proposal may be deemed non-responsive and may be removed from further consideration. NYSDOT reserves the right to ask clarification questions on a firm’s DBE proposal. DBEs certified out of New York State are not automatically eligible for consideration (required to go through New York state’s DBE certification process). NYSDOT may apply FHWA’s ‘administrative reconsideration’ process, depending upon circumstances. Pending DBEs (at the time of proposal submission) are not allowed.

Proposers are encouraged to ask questions regarding this aspect of the solicitation.

3. **RFP Modification Acknowledgements**

The proposer shall complete and submit all future RFP Modification Acknowledgement Forms (if any) as instructed. Receiving an acknowledgement that you’ve read and understood the changes the RFP Modification have are important to receiving a fair and competitive proposal. Missing or not following changes to the RFP could lead to lowering of a proposal responsiveness score or at worst proposal dismissal.

4. **Registrations**
Each proposer must reference its NYS Statewide Financial System (SFS) Vendor Identification Number and NYSDOT-issued Consultant Identification Number (CIN) in its Cost Proposal (Attachment 2). A vendor cannot do business in New York State unless it has registered in NYS’s Statewide Financial System. Please contact NYSDOT if your firm does not yet have its New York State SFS vendor ID number.

If a proposer is selected for contract award and does not have a NYSDOT Consultant Identification Number (CIN), it will be required to obtain one through the following NYSDOT website prior to negotiation of the contract:


Selected vendors are also required to register with the Office of the State Comptroller’s Vendor Responsibility System.

5. PROPOSAL EVALUATION PROCESS

5.1 Pre-Screening of Proposals

It is NYSDOT’s sole discretionary determination as to whether a proposal is complete. Proposals which do not meet the RFP’s Minimum Responsiveness requirements section may be deemed incomplete and non-responsive. Proposals deemed to be non-responsive shall be removed from further consideration.

Proposal Due Date. All proposals must be delivered to NYSDOT’s Contract Management Bureau’s office by 2:00 PM on November 6, 2014. Any proposals received after that time/date shall not be evaluated further but shall become NYSDOT property.

Proposal Opening, Log-in and Certification. Proposals received on or prior to the proposal due date and time will be opened, inventoried for completeness, certified, and logged-in (per criteria listed in RFP Section 5). For proposals received before/on the due date, firms may receive clarification questions/requests based upon the response completeness checks, with any requested clarification information due back to NYSDOT by COB that same day.

Minimum Proposal Requirements. Per RFP Section 4, any proposal which does not include all of the following by the RFP deadline may be determined to be non-responsive. Any proposals deemed non-responsive shall be removed from further consideration (prior to the technical evaluation of proposals):

1. Complete Technical and Management proposal submission.
2. Complete Cost and Contract proposal submission.
3. A proposal which either meets/exceeds the 18% DBE contract goal for C031290 or offers acceptable Good Faith Effort documentation and Letter of Explanation.

DBE Goal Attainment/GFE Acceptance Review. The proposed DBE participation percentages offered for NYSUCP certified subconsultants will be reviewed (RFP Attachment 9). Each offered DBE must be currently listed in the NYSUCP Directory to count towards the Department’s 18% DBE participation goal. If the proposed DBE participation is less than the established 18 percent goal, the firm’s evidence of a Good Faith Effort (RFP Attachment 10) to achieve the goal will be reviewed for reasonableness and acceptableness along with the firm’s letter of explanation as to
why it was unable to meet the goal. If a proposer submits a proposal which meets or exceeds the 18% DBE goal, then the certification registration status of all offered DBE subconsultants will be verified by Contract Management, and if certified, the proposed DBE goal accepted.

Proposers with non-certified DBEs will receive a clarification response and be given one opportunity to clarify their proposal (per USDOT/FHWA’s Administrative reconsideration’ process). Offered clarifications will be considered by NYSDOT. Offerors with non-certified DBEs will receive a clarification request to submit a revised good faith effort log. Offerors with acceptable DBE subconsultant participation goal attainment plans will receive a recommendation to have their full proposals proceed further in the evaluation process.

If a proposer submits a proposal which does not meet the 18% DBE goal for C031290, then the submitted good faith log will be reviewed for acceptability and verification of the robustness of effort. Blank, missing, incomplete or otherwise unacceptable good faith efforts may be deemed non-responsive and have their proposal removed from further consideration. Such proposers may be contacted to request clarification of their submitted good faith effort log. Offered clarifications will be considered by NYSDOT. Offerors with acceptable good faith effort logs will have their full proposals proceed further in the proposal evaluation process.

5.2 Evaluation Category Weight Distribution

Proposals will be evaluated using the NYSDOT’s Best Value method based upon a 100 total point scale. The Technical and Management portion will be point scored and will represent 75 points of the total Best Value score for the proposal. The cost portion of the Cost and Contract portion will be point scored and will represent 25 points of the total Best Value score for the proposal. Technical evaluation is further divided into 60 points for written technical proposal evaluation with 15 points for technical interview evaluation. Only shortlisted firms will be interviewed. A more detailed breakdown of the RFP’s proposal evaluation category weights follows.

5.3 Technical & Management Proposal Evaluation (Up to 75 Points)

5.3.1 General:

Technical evaluation of proposals will be accomplished by the members of the Technical Evaluation Committee (TEC) comprised, as appropriate, of technical, program and management subject matter experts. An evaluator package shall be prepared and submitted to members of the TEC; this package shall contain evaluator instructions and evaluation instruments, and shall become part of the procurement record. The TEC shall be briefed on the proposal evaluation process prior to distribution of proposals.

Cost proposals shall be evaluated by NYSDOT Contract Management Bureau.

Members of the Technical Evaluation Committee will evaluate and score each technical proposal individually (may ask initial clarification questions). Each evaluator shall measure the degree of responsiveness of each proposal’s responses to the specifications and requirements contained in the RFP against the RFP’s evaluation factors (RFP section 5), looking for quality, reasonableness and professionalism. Responses will be evaluated according to the respondent’s ability to best satisfy the RFP’s technical requirements. The quality of a firm’s approach shall be evaluated.

Members of the TEC shall document their responsiveness findings (using the scoring instrument provided in Eval-Pak; separate document, which is part of the proposal evaluation process), and record a whole number numerical score (using the zero-to-ten scoring instrument with grade
definitions). The TEC shall convene as a group to discuss the proposals, firm by firm, factor by factor. Evaluators will be allowed to revise scores on the basis of the committee discussions. Reasons for score changes will be documented on the TEC member’s scoresheet as well as electronically by Contract Management. Clarification questions may be formulated during group discussion, and forwarded to firms for responding (either for further TEC group discussion or for technical interviews). Clarification responses shall be forwarded to the TEC for additional consideration. Scoring of written proposals shall remain open until after conclusion of evaluating and scoring the Technical Interviews (for shortlisted firms only). Members of the TEC shall be given the opportunity to revise (re-score) their earlier scores/findings based upon the additional clarification information garnered from the Technical Interviews.

Throughout the technical proposal evaluation process, members of NYSDOT evaluation committee may post clarification questions from various perspectives, including those resident in their native Program Areas, including (but not limited to): Region 8, Region 10, Region 11, Main Office Planning, MO Air Quality, MO Transit, etc. Vendors should anticipate this in their written technical proposals as well as via follow clarification questions (either in writing or during the technical interview).

As the TEC evaluates and scores each technical and management proposal, the resulting raw average written technical score by firm are kept by each TEC member (on their respective scoresheets) as well as by Contract Management on an electronic composite best value spreadsheet. Contract Management may initially list firms in alphabetic order and later on by initial and final best value rank order.

5.3.2 Technical and Management Written Proposal Evaluation  (up to 60 Points)

The technical evaluation criteria listed below, per the RFP, shall be used by the TEC. Each factor’s respective weight is identified in parenthesis. The major evaluation categories are divided into subcategories with no assigned subweights, as the one higher-level category weight covers all subcategories. These are detailed below:

1. Key Personnel Experience and Staffing  Quality, extent and relevance of experience, education and training of key personnel per the RFP’s experience requirements  (up to 26 points)

2. Approach, Scope of Services and Management Plan (up to 27 points)
   a. Quality and acceptability of approach identifying how the vendor proposed to accomplish the project’s objectives. Degree to which current services are maintained.
   b. Quality and acceptability of scope of services for accomplishing project objectives; initiative and creativity of proposer; reasonableness of staff/task allocations for each task and total effort
   c. Quality of proposed project management, including meeting DBE commitments and quality of plan for phasing key personnel (including replacements) into project.
   d. Extent and quality of interaction with key participants and ability to deliver customer services

3. Quality, extent and relevance of current and prior experience of the firm (or teams of firms). (up to 7 points)

5.3.3 Reference Checks

Reference checks (to verify offered experience) may be required to complete the evaluation of
technical proposals. In cases where TEC members are unfamiliar with a firm’s work or NYSDOT does not have prior consultant performance documentation, the TEC may request verification of a firm’s offered references. Subject references shall be contacted by Contract Management using its standard reference check questionnaire (with possible appropriate modifications), adjusting that per the RFP. Reference check feedback will be forwarded to the TEC for their considerations during the initial group discussion phase. The TEC may meet to consider reference check information. Evaluators will be allowed to revise their technical scores based on consideration of this additional information and their follow-up discussions. Changes to scores and their reasons shall be recorded on written scoresheets as well in electronic form.

5.3.4 Written Technical Proposal Clarifications

NYSDOT reserves the right to seek written clarifications from firms submitting proposals in order to assure a full understanding of their responsiveness to the solicitation’s technical requirements. If written clarifications, based upon proposal review, are requested by the Technical Evaluation Committee, a firm which is the target of the clarifications may be asked to provide written clarifications at any time during the proposal evaluation process. Evaluators will be allowed to revise their technical scores based on receipt and consideration of this additional clarifying information and follow-up TEC discussions. Reasons for any score changes shall be documented.

5.4 Cost Proposal Evaluation (Up to 25 Points)

Cost proposals shall be reviewed, evaluated and scored for all proposals once they have cleared the RFP minimum responsiveness requirements checks (prescreening). Cost proposals shall be point scored with up to 25 best value points available. Initial cost scores shall be developed and used to identify initial Best Value scores. Cost proposal clarification questions may be asked at this time.

The cost proposal with the lowest total fixed cost to deliver all requested ATDMP services for 4 years shall receive a perfected cost score of 25 points. Proposals with higher total fixed cost shall receive proportionately lower cost proposal scores. Please note that for proposal evaluation purposes, the proposed year one total cost shall be multiplied by four to evaluate the full, estimated proposed cost for C031290’s four-year base term.

Cost scores (which are relative to the field of consultants competing for contract award) are subject to change depending upon whether or not cost proposal clarifications responses (or Best and Final Offer responses or proposal withdrawals or pass/fail dismissals) lead to proposed cost changes. Cost scoring results shall be used to determine which proposals are to be shortlisted/which firms are susceptible to contract award (a best value determination). A final cost score shall be calculated once all cost proposal evaluation has been completed.

5.5 Initial Best Value Determination

Perfected cost scoring results will be added to the initial average raw technical scores, generating an initial best value score by firm. Firms shall be ranked in initial best value score order (highest to lowest).

Should any firm withdraw their proposal during the proposal evaluation process, NYSDOT will remove that firm’s technical and cost information from the Best Value evaluation documentation and shall recalculate the remaining field’s technical and cost scores (without the withdrawn firm’s information).
5.6 Proposal Shortlisting

The shortlisting rule for this solicitation shall be any proposal within 15 points of the top initial Best Value ranked proposal, plus any ‘cluster’ of initial best value proposal scores just below the cut-off line. Cost evaluation results shall be considered along with the initial average raw after-group discussion written technical proposal score results to determine initial offered Best Value, which shall lead to an initial Best Value-determined shortlisting of firms (determined to be mathematically susceptible for contract award). Should more than one firm make the shortlist, NYSDOT shall publically announce the list of firms who made the shortlist.

Firms submitting proposals which do not make the shortlist shall not be included in the remaining best value evaluation process steps (not included in subsequent proposal scoring process). Such a firm’s proposal shall be classified as: ‘Did Not Finish’ in the procurement record.

5.7 Technical Interview Evaluation (15 points)

The Technical Interview portion (only available for firms mathematically subject to contract award; i.e., shortlisted) of the Technical and Management proposal will be technically evaluated and point scored and will account for a separate block of up to 15 points of the total best value score for a proposal. Technical Interviews will be held for firms offering proposals which are deemed to have a mathematical chance of being susceptible to contract award and have made the short-list after completion of initial Best Value considerations.

Short-listed firms shall receive a Technical Interview invitation package, which shall include instructions, areas in which NYSDOT is seeking further clarifications, and may include additional clarification questions from the Technical Evaluation Committee (TEC). Firms invited to attend Technical Interviews shall present a brief overview of key personnel present, make brief opening presentation (limited to 10 minutes), and respond to TEC member questions. Conduct in interviews by prospective vendors shall be at no cost to the State of New York.

TEC members will evaluate Technical Interviews using the RFP’s evaluation criteria and weights listed below. A separate score sheet shall be used to record TEC Technical Interview findings and scores. TEC members shall score the technical interview independently first, then meet as a group to discuss their findings and scores. Members of the TEC may revise their technical interview scores as a result of group discussions. Reasons for score changes shall be recorded on the applicable TEC member’s hardcopy scoresheet as well as in Contract Management’s electronic composite scoresheet. Once scoring of each Technical Interview has concluded, TEC members shall sign/date and surrender their scoresheets to Contract Management.

Technical Interview Evaluation   (up to 15 points; for shortlisted firms only).

1. Further insight and understanding of the consultant’s proposed experience (firm and all key personnel); Clarity and quality of presentation; team chemistry.  (up to 10 points)

2. Further insight and understanding of the consultant’s proposed approach and scope of services; adequacy of the tasks/roles the Consultant will undertake as part of the project team to deliver contract; were all Key Personnel in attendance with an adequate short introductions and discussion of their capabilities, experience/expertise and proposed project roles and articulated and demonstrated knowledge of the proposal;  (up to 4 points)

3. Responsiveness to questions and concerns raised by the TEC; ability to satisfactorily answer all TEC clarification questions;  (up to 1 point)
5.8 Final Written Technical Proposal Evaluation (Re-Scoring)

Scoring of written technical proposals shall remain open until after conclusion of evaluating and scoring the Technical Interviews. Members of the TEC shall be given the opportunity to revise (re-score) their earlier scores/findings based upon the additional clarification information gained from the Technical Interviews. TEC members shall revisit their original hardcopy scoresheets and should any after-Technical Interview changes be in order, may revise their after-group discussion written technical proposal scores as a result of further group discussions. Reasons for any and all score changes shall be recorded on the applicable TEC member’s hardcopy scoresheet as well as in Contract Management’s electronic composite scoresheet. Once the re-scoring of written technical proposals has concluded, TEC members shall sign/date and surrender their scoresheets to Contract Management.

5.9 Best and Final Offers (BAFO; Optional) & Proposal Withdrawal

NYSDOT reserves the right to request Best and Final Offers (BAFO) from firms which make the shortlist. NYSDOT may award contract #C031290 without requesting a BAFO. Any Best and Final Offer request may ask additional further clarifying technical and/or cost proposal questions of firms to further clarify their submitted proposals. NYSDOT also may request a cost only BAFO. Should NYSDOT opt to request BAFOs, all shortlisted firms will receive a BAFO request. Responding firms will be allowed to submit a Best and Final Offer (technical and/or cost); firms may opt to not submit a BAFO. Evaluators will be allowed to revise their technical scores for the written proposal based on their consideration of any new or changed Technical proposal information contained in any Best and Final Offer (will re-sign/re-date the applicable hardcopy scoresheets). If changes to a firm’s Technical Proposal lead to corresponding, necessary revisions to their Cost Proposal (or should a firm opt to clarify their cost proposal) or should the Department opt to request cost-only BAFOs, the Department’s Contract Management representative shall make the necessary, appropriate adjustments to that firm’s cost proposal evaluation.

Should any firm withdraw their proposal after a possible BAFO request, NYSDOT will remove that firm’s technical and cost information from the Best Value evaluation documentation and shall recalculate the remaining field’s technical and cost scores (without the withdrawn firm’s information).

5.10 Final Best Value Evaluation

After evaluation of all technical information submitted by competing consultants (i.e. initial written proposals, written clarifications, and possible Best and Final Offers), NYSDOT will perfect (curve) the technical proposal scores so that the highest-rated raw written technical proposal score gets changed and assigned a perfect score of 60 points for this solicitation with the other technical scores adjusted proportionately upward. NYSDOT will also perfect (curve) the Technical Interview scores so that the highest-rated raw Technical Interview score gets changed and assigned a perfect score of 15 points for this solicitation with the other Technical Interview scores adjusted proportionately upward. Cost proposals have previously been evaluated and the resulting cost scores perfected by cost proposal scoring rule. Perfected cost scoring results will be added to the perfected written technical proposal score plus the perfected Technical Interview score to generate a tentative final best value score. Firms shall be ranked in Final Best Value score order (highest to lowest).

**Tie-Breaking Rule:** Should any of the tentative final Best Value Scores of one or more proposals
competing for the contract award lie within one and one-half points of each other, then State Finance Law Section 163(10)(a) shall be used to settle any ties.

Once all possible score ties have cleared, NYSDOT will determine the Final Best Value Score, where after the proposal with the highest Final Best Value score shall be recommended to NYSDOT Executive Management for contract award for contract #C031290.

5.11 Consultant Selection Recommendation & Tentative Contract Award

A consultant selection and designation memo shall be prepared and forwarded to the applicable NYSDOT Executive Manager(s) with an accompanying proposal evaluation process results report. The memo shall recommend selection of the top-ranked Best Value Consultant for tentative contract award of C031290 to NYSDOT Executive Management. The Executive Manager will be asked to concur with the final conclusion of the proposal evaluation process - a recommendation for the tentative contract awards for the Department - and designate the top-Best Value rated consultant based upon the above results.

Should negotiations with the top-ranked Best Value Consultant fail to produce agreed-upon contracts, then NYSDOT Executive Management will designate and award contract #C031290 to the next highest-ranked Best Value Consultant. The Department will then enter into negotiations with the second-highest rated Consultant. This process may repeat itself until acceptable contracts are consummated. The consultant designation becomes final after the NYS Office of the State Comptroller approves Contract #C031290.

The designation shall be publically posted. Once the public has been notified of the solicitation’s results, negotiations with the selected Consultant can commence. The final contract is subject to approval by NYSDOT, the Attorney General, and the Office of the State Comptroller, and is not binding until such approval is received.

At the conclusion of the proposal evaluation process, an announcement of NYSDOT’s designation(s) will be posted the ‘Consulting Services’ listing on NYSDOT’s website via: https://www.dot.ny.gov/business. All proposers will be notified in writing regarding the results from the solicitation. All non-designated firms will be offered an opportunity to request a debriefing. A debriefing is limited to a review of how your proposal faired against the RFP’s requirements.

It is expressly understood that this RFP does not commit NYSDOT to award a contract, to pay any costs incurred in the preparation of a proposal to this request, or to procure or contract services or supplies. Further, NYSDOT shall have no obligation or liability whatsoever to the vendor selected as a result of this solicitation, unless and until a contract satisfactory to NYSDOT is approved and executed by the vendor and all necessary State officials.

6. ADMINISTRATIVE SPECIFICATIONS

6.1 Inquiries and Information

All questions concerning this solicitation must be directed only to Al Hasenkopf, NYSDOT Contract Management Bureau. The last date to submit questions for this solicitation is indicated in Section 6.4, Tentative Schedule of Key Events. All inquiries should be addressed to:
NYSDOT will do its collective best to respond to all questions of a substantive nature, answers to which shall be posted to NYSDOT’s website under this solicitation. NYSDOT will also send out informal ‘Announcements’ to all vendors who register their potential interest with the designated NYSDOT contact person. A list of parties expressing potential interest shall also be posted onto NYSDOT’s website shortly after the Pre-Proposal Webinar is held.

6.2 Proposal Submission

The proposal shall be signed by an official of the firm who is duly authorized by the responding firm to bind the proposer to its offer (as clarified by the proposal evaluation process and by the negotiation process). One proposal shall be an original (and identified as such); all others are to be copies.

Your proposal must be received by NYSDOT by 2:00 PM ET on the day indicated in Section 6.4, Schedule of Key Events (below). The proposal must be addressed to:

William A. Howe, Director, Contract Management Bureau
New York State Department of Transportation
50 Wolf Road, 6th Floor
Albany, New York 12232
Attention: Al Hasenkopf RFP C031290

6.3 State’s Rights to Proposals

All proposals, upon submission to NYSDOT, shall become NYSDOT property for use as deemed appropriate. By submitting a proposal, the proposer covenants not to make any claim for or have any right to damages because of any misinterpretation or misunderstanding of the specification, or because of any misinformation or lack of information. With regard to proposal submitted, NYSDOT asserts the following rights and prerogatives (the RFP expressed others elsewhere):

1) To accept or reject any or all proposals;
2) To correct any arithmetic errors in any or all proposals;
3) To change the proposal’s due date upon appropriate notification to interested firms;
4) To eliminate any mandatory RFP specification unmet by all offerors in the evaluation of received proposals;
5) To adopt any or all of a successful offeror’s proposal;
6) To negotiate modifications to the scope, milestone payment schedule and total cost, and contract terms and conditions with the selected offeror prior to contract award only if it is in the best interest of the state to do so;
7) To disqualify an offeror from receiving the award if such offeror, or anyone in the offeror’s employ, has previously failed to perform satisfactorily in connection with public bidding or contracts;
8) To revise/amend any provision of this RFP by written notification to offerors, prior to proposal submission;
9) To eliminate any requirement that is found to be unmet by all offerors;
To make inquiries, by means it may choose, into the offeror’s background or statements made in the proposal to determine the truth and accuracy of all statements made therein;

To select and award the contract to the offeror whose proposal represents the best value to NYSDOT;

Should NYSDOT determine that the negotiations with the selected offeror will not result in a contract, to begin contract negotiations with the next-best-value offeror(s) responsive to this RFP — without again requesting proposals;

If NYSDOT terminates the contract — without again requesting proposals, to begin contract negotiations with the next-best-value offeror; and

Any contract entered into pursuant to an award of this solicitation shall contain a provision which grants the option to extend the terms and conditions of such contract to any other New York state agency. However, any response to this solicitation shall be based solely on the purpose of this solicitation and shall not factor in the possibility that this contract may, in the future, be applicable to other state agencies. Please be advised that any award made pursuant to this solicitation shall be based on the specific requirements of this solicitation only.

6.4 Tentative Schedule of Key Events

NYSDOT will attempt to adhere to the following schedule with regard to this solicitation:

<table>
<thead>
<tr>
<th>Event</th>
<th>Timeline</th>
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</thead>
<tbody>
<tr>
<td>RFP Release Date</td>
<td>October 6, 2014</td>
</tr>
<tr>
<td>Pre-Proposal Webinar</td>
<td>October 9, 2014 @ 10:00 AM</td>
</tr>
<tr>
<td>Question Submittal Deadline</td>
<td>October 23, 2014 COB</td>
</tr>
<tr>
<td>Answers to Question Due 1</td>
<td>October 29, 2014</td>
</tr>
<tr>
<td>Proposals Due</td>
<td>November 6, 2014 @ 2:00 PM</td>
</tr>
<tr>
<td>Proposal Evaluation Begins</td>
<td>November 2014</td>
</tr>
<tr>
<td>Technical Presentations</td>
<td>November 2014</td>
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<tr>
<td>Recommendation &amp; Designation</td>
<td>December 2014</td>
</tr>
<tr>
<td>Negotiation</td>
<td>December 2014</td>
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<tr>
<td>Contract Execution</td>
<td>December 2014</td>
</tr>
<tr>
<td>Work Begins</td>
<td>January 1, 2015 2</td>
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</tbody>
</table>

1: A second Q&A round is possible

2: NTP may be for remainder of CY2015

6.5 Pre-Proposal Webinar

NYSDOT will hold a ATDM Program RFP Pre-Proposal Webinar, where remote participation is optional yet recommended. The agenda shall be going over the RFP and its attachments, and highlighting what’s changes since the RFP was first issued. Questions can be submitted in advance as well as electronically via the webinar. The Pre-Proposal Webinar shall be held on October 9, 2014 at 10:00 AM. To register for the webinar, please contact: alfred.hasenkopf@dot.ny.gov.

NYSDOT will record the webinar. Answers provided at the webinar shall be recorded; some questions may have to be deferred. Answers to all substantive questions shall be publically posted onto NYSDOT’s website under this solicitation, and all parties notified via announcement. E-mail notices shall be sent to the e-mail addresses of all parties who officially register their interest in NYSDOT’s ATDM Program C031290 RFP. Only written answers posted on the
NYSDOT website will be official. Questions that address possible conflicting information in this RFP will be resolved via formal Modification to this RFP and posted on the NYSDOT website, with all firms expressing interest being notified via e-mail. To be deemed responsive, all firms offering proposals are required to acknowledged receipt of any and all RFP Modifications in writing (by submitting the one-page acknowledgement response form included in the RFP Modification document).

6.6 Deliverable Submittal, Review and Acceptance Process

The selected Consultant and NYSDOT will follow the following deliverable submittal, review and acceptance process for all deliverables except for software.

Submittal Process:
- The Consultant shall submit the deliverable to the assigned NYSDOT Project Manager(s) (PMs). An electronic copy is preferred.

Review Process:
- The PM(s) consults with Program Area to develop lists of reviewers and approvers.
- Electronic copies of the deliverable are distributed to reviewers and approvers.
- The Consultant will schedule a meeting with designated reviewers and approvers to provide a high-level walkthrough of the document to facilitate review.
- The PM will schedule a review meeting with reviewers and approvers. They are notified of the importance of reviewing the deliverable and that it is essential for them to have read and developed comments before the meeting.
- The Review Meeting will be held. At the meeting, the document is reviewed page-by-page. Minor in-line changes will be made using Word’s ‘Track Changes’ feature. Comments will be inserted into the document where appropriate. The originator of each comment will be noted. (This will be done on a Pilot basis. The effectiveness of the process will be evaluated and a decision made regarding process refinement.)
- NYSDOT will make every reasonable effort to provide the review comments to the Consultant within 10 business days from submittal. It should be noted that all submittals not received before noon will be considered to have been submitted the following day.
- It is expected that NYSDOT will receive the revised documents addressing all comments within 5 business days of the return of the original submittal to the Consultant.
- NYSDOT will review the revised submittal and return comments to the Consultant within 5 business days. No new comments will be made unless either the original comments have not been adequately addressed or modifications made in response to the original comments have raised new issues or concerns.
- The Consultant will address all comments and resubmit within 3 business days.
- NYSDOT will complete the “Final Review” within 2 business days. If there are outstanding issues that remain, NYSDOT and the Consultant will immediately escalate them to the Sponsors and, if necessary, the Steering Committee for resolution.

Acceptance Process:
• When the deliverable has been accepted, the Consultant will be so notified and they will submit an invoice via email to NYSDOT Project Manager(s). Signed invoice to follow in regular mail.

• NYSDOT Project Manager(s) will forward the invoice to designated NYSDOT payment person along with a statement indicating that the deliverable fulfills contract requirements and has been accepted.

• Designated NYSDOT payment person will then forward the invoice to Accounting for payment.

• For all software-related deliverables, the Consultant’s RTM and the RFP’s requirements will be being used to govern acceptance.

6.7 Protest Procedure

NYSDOT has established a protest procedure to be utilized when an interested party challenges a Non-Engineering consultant designation by NYSDOT. The complete procedure can be accessed via https://www.dot.ny.gov/main/business-center/consultants/consultants-repository/misrep_protest.pdf. The protest procedure addresses the FHWA’s DBE Administrative Reconsideration per 49 CFR Part 26.53(d).

6.8 Information for the Selected Consultant

The following items are presented for proposer information, to make interested parties aware of contract-related items to which selected Consultant(s) need to pay attention.

6.8.1 Vendor Responsibility

In accordance with the NYS Finance Law, NYSDOT will only make contract award to vendors that are determined to be responsive and responsible. All Prime Consultants with NYSDOT contracts (as well as all subconsultants with contract contributions greater than $100,000) will be required to provide vendor responsibility information through the Office of the State Comptroller (OSC) website, via http://www.osc.state.ny.us/vendrep/index.htm, before negotiation of a contract. Offerors must certify the accuracy of the information they provide in the questionnaire. The date your firm certifies your OSC vendor responsibility filing will appear on the contract signature page.

6.8.2 Contractor Tax Certification

All vendors selected for contracts in excess of $100,000 for the sale of goods or services must complete and submit two NYS Tax Department forms: Form ST-220-TD (Contractor Certification) and Form ST-220-CA (Contractor Certification to Covered Agency) during negotiation of a contract with State agencies. You should make yourself familiar with these forms by visiting the following websites:


6.8.3 Insurance Requirements of this Project

Please carefully read the terms and conditions of the draft Contract appended as Attachment 1 to this RFP. Your attention is drawn to the insurance requirements for this Project that are contained in Attachment 1, Article 11. These insurances are mandatory for the firm(s) selected as a result of this solicitation and will not be waived. Proof of Workers’ Compensation and Disability
Benefits Insurance are required before the amendment can be approved. The following are acceptable proofs:

1. **Workers’ Compensation Coverage:**
   - Form C-105.2 Certificate of Workers’ Compensation Insurance issued by private insurance carriers
   - Form U-26.3 Certificate of Workers’ Compensation Insurance issued by the State Insurance Fund
   - Form SI-12 Certificate of Workers’ Compensation Self-Insurance
   - Form GSI-105.2 Certificate of Participation in Workers’ Compensation Group Self Insurance

2. **Disability Benefits Coverage:**
   - Form DB-120.1 Certificate of Disability Benefits Insurance
   - Form DB-155 Certificate of Disability Benefits Self-Insurance

3. **WC/DB Exemption:**
   - CE-200 Certificate of Attestation of Exemption from NYS Workers’ Compensation and/or Disability Benefits Coverage For more information see GFO Chapter XI Section 18G

**Please Note:**
- The name and FEIN of the contracting entity must match the name and FEIN identified on the proof of coverage or exemption.
- An ACORD form is not an acceptable proof of workers' compensation coverage or disability benefits insurance.
- In the instance of exemption, please be advised that the WCB does not verify Attestations for Exemption. As the State contracting entity, you must verify the acceptability of the entity's reason for exemption and communicate that reason to the OSC auditor requesting proof of compliance; please verify and provide a copy of the signed and dated exemption certificate.
- To assist you and your vendor to resolve this matter, the following links to information regarding acceptable proofs of coverage are provided:
  - Workers' Compensation: [http://www.wcb.ny.gov/content/onlineforms/obtainC105.jsp](http://www.wcb.ny.gov/content/onlineforms/obtainC105.jsp)
  - Disability Benefits: [http://www.wcb.ny.gov/content/onlineforms/obtainDB120-1.jsp](http://www.wcb.ny.gov/content/onlineforms/obtainDB120-1.jsp)
  - Exemption: [http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/requestExemptionOverview.jsp](http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/requestExemptionOverview.jsp)
- Please find a link to the attached WCB publication Prove it to Move it Program 2010, which outlines current guidelines for WCB compliance: [http://www.wcb.ny.gov/content/main/Employers/ProveItToMoveIt.pdf](http://www.wcb.ny.gov/content/main/Employers/ProveItToMoveIt.pdf)
- Questions regarding coverage requirements may be directed to the WCB compliance division, Walter Peretti, 518-402-8330, walter.peretti@wcb.ny.gov.

4. **Other NYSDOT Insurance:**
   The Agreement requires the Consultant to PROCURE AND MAINTAIN UNTIL FINAL ACCEPTANCE OF THE WORK in the amount specified in Article 11. Only Certificate of Insurance Form C218m is accepted by the Department. The C218m form to be completed by your broker is downloadable via: [https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions](https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions)
6.8.4 Consultant Employment Disclosure Requirements of this Project

The Consultant selected for this solicitation shall be required to complete ‘State Consultant Services – Contractor’s Planned Employment’ (Attachment 4, Consultant Employment Disclosure Legislation Form A) and submit when the contract is signed. For each contract year thereafter, the Consultant shall complete the “State Consultant Services Contractor’s Annual Employment Report” (Attachment 4, Consultant Employment Disclosure Legislation Form B) and submit copies to the Office of the State Comptroller, the Department of Civil Service, and the Department of Transportation on or before May15 of each year the contract is in effect.

6.8.5 Consultant Responsibility When Proposing to Use a Former NYSDOT Employee

It is the Consultant’s responsibility to ensure that they propose staff eligible to work on the subject project. Under the attached procedures, before the consultant proposes a former NYSDOT employee, the individual must obtain an opinion from the New York State Ethics Commission that approves their participation in the subject project. For an outline of the procedure that applies to this situation, see Attachment 5.

6.8.6 Registration with NYSDOT

Should this solicitation lead to a designation, it is the Consultant team’s responsibility to electronically register their firm, including all subconsultants, using the Consultant Selection System web application (CSSWeb). Non-Architectural/Engineering consultant firms are required to create and register an account to: 1) Create and assign Consultant Identification Numbers (CINs) for each office registered by the firm; and 2) Provide general firm information, including but not limited to legal firm name, Federal Identification Number (FEIN), ownership type, D/W/MBE status, firm principals and office(s) address information. All Consultant firms participating in a potential agreement (negotiations) must be registered electronically with NYSDOT prior to that agreement being forwarded to the OSC for approval. Registered firms are responsible for verifying and updating their registration information for the duration of the agreement. Section 6 of this RFP provides more information.

6.8.7 Registration with Statewide Financial System (SFS)

Should this solicitation lead to a designation, the Prime Consultant will be required to register electronically with New York State’s SFS. If a firm is not already registered, NYSDOT will initiate the registration process in the SFS application and then contact the Prime Consultant to provide them with further direction for completion of the registration process. The result of this process is an established SFS vendor number assigned to the Prime Consultant, usable for all NYS-related transactions. If a firm has already registered in SFS in connection with another procurement effort, it will likely not need to re-register for this opportunity but is instructed to enter its SFS number in Attachment 2. However, an SFS vendor number is specific to the legal name of a firm. Since many firms have different variations of their business identities, firms will be required to register in the name of the business entity with which NYSDOT is doing business.
ATTACHMENT 1

Draft Contract

NEW YORK STATE DEPARTMENT OF TRANSPORTATION

F. A. NO.: ___________ P.I.N.: ___________

COMPTROLLER'S CONTRACT NO. C031290

PROJECT: Integrated Regional and Employer-Based Travel Demand Management (TDM) and Active Demand Management (ADM) Services in Support of an Active Transportation and Demand Management (ATDM) Program

This Agreement made this ________ day of __________________, 201_ pursuant to Section 14 of the Transportation Law, by and between THE PEOPLE OF THE STATE OF NEW YORK (hereinafter referred to as the "STATE") acting by and through the Department of Transportation (hereinafter referred to as "STATE") whose office is at 50 Wolf Road, in the County of Albany, State of New York 12232, and

CONSULTANT FIRM NAME
CONSULTANT FIRM ADDRESS
(hereinafter referred to as "CONSULTANT")

WITNESSETH:

WHEREAS, the STATE desires the CONSULTANT because of its ability and reputation, to perform the services hereinafter mentioned upon the PROJECT which is fully described in SCHEDULE A and the CONSULTANT agrees to provide these services.

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

ARTICLE 1. PERFORMANCE OF WORK.

The CONSULTANT shall perform all of the work described in SCHEDULE A 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 CONSULTANT 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 SCHEDULE A. The CONSULTANT shall furnish such personnel and shall procure such materials, machinery, supplies, tools, equipment and other items as may reasonably be necessary or appropriate to perform the work in accordance with this AGREEMENT. It is understood and agreed that __________________ shall serve as the CONSULTANT's Project Manager and as such shall have the responsibility for the overall supervision and conduct of the work on behalf of the CONSULTANT and that the persons described in SCHEDULE A shall serve in the capacities described therein. Any change of key project personnel by the CONSULTANT shall be subject to the prior written approval of the STATE. The STATE reserves the option to extend the terms and conditions of this AGREEMENT to any other state agency in New York subject to the approval of all necessary state officials.

The CONSULTANT will commence work no later than ten (10) days after receiving notice to proceed from the STATE.

ARTICLE 2. DOCUMENTS FORMING THE AGREEMENT.

The contract documents shall be deemed to include this AGREEMENT (including EXHIBITS), the provisions required by state and federal law to be inserted in the AGREEMENT as set forth in APPENDIX A, APPENDIX A-1, APPENDIX B and APPENDIX C, SCHEDULE A (including EXHIBITS), SCHEDULE B (including EXHIBITS), the
STATE’s Request for Proposals (RFP; dated ___) incorporated by reference, and the CONSULTANT’s Proposal (dated ___) incorporated by reference.

**ARTICLE 3. INSPECTION.**

The duly authorized representatives of the STATE, and on Federally aided projects, representatives of the Federal Highway Administration, shall have the right at all times to inspect the work of the CONSULTANT.

**ARTICLE 4. TERM OF THE AGREEMENT.**

The CONSULTANT agrees to complete all the work of this AGREEMENT as required by this AGREEMENT within a 48-month base term for this AGREEMENT, which shall commence on _____________ __, ______ and end on ________________ __, ______. The AGREEMENT may be extended for up to one 12-month time period as may be agreed upon by the parties to the AGREEMENT and as approved by the Office of the State Comptroller.

**ARTICLE 5. MAXIMUM AMOUNT PAYABLE.**

Item I The maximum aggregate amount payable by the State to the CONSULTANT hereunder for the performance and completion of the work is $______ unless increased by a supplemental agreement. It is understood and agreed that the STATE is under no obligation to make a minimum number of work assignments and will only reimburse the CONSULTANT for approved costs incurred in the performance of authorized project assignments.

Item II The CONSULTANT 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. PROVISION FOR PAYMENT.**

The STATE shall pay to the CONSULTANT, and the CONSULTANT agrees to accept as full compensation for services provided under this agreement:

Item I Specific Hourly Rates of pay shown in SCHEDULE B (EXHIBIT ___) for employees assigned to this PROJECT. The Specific Hourly rates are not subject to audit, however, the number of hours charged is subject to audit. If the AGREEMENT is extended beyond (end date in Article 4), then all of the Specific Hourly Rates of pay shown in SCHEDULE B EXHIBIT ___ are eligible for rate adjustments. They may be adjusted annually by the lower of either the percent change for the Producer Price Index – Architectural, Engineering and Related Services (Series ID: PCU5413--5413--) for the most recent 12 month period as calculated by the U.S. Department of Labor - Bureau of Labor Statistics, or 1.5%, all subject to current market conditions. If at any time the above Index Series ID is discontinued or becomes unavailable, the STATE reserves the right to implement a comparable Index.

Item II Actual Direct Non-Salary Costs incurred in fulfilling the terms of this AGREEMENT are subject to audit. Such costs may include, but are not necessarily limited to those shown in SCHEDULE B EXHIBIT ____. All reimbursement for travel, meals and lodging shall be made at actual cost paid but such reimbursement shall not exceed the prevailing maximum rates established by the State Comptroller.

Items purchased under this PROJECT shall become the property of the STATE at the completion of the work, or at the option of the STATE, appropriate value shall be established as a credit to the STATE.

**ARTICLE 7. CONTRACT PAYMENT.**

The CONSULTANT shall provide complete and accurate billing invoices to the STATE in order to receive payment. Billing invoices submitted to the STATE must contain all information and supporting documentation required by the Contract, the STATE and the State Comptroller. Payment for invoices submitted by the CONSULTANT shall only be rendered electronically unless payment by paper check is expressly authorized by the New York State Department of Transportation Commissioner (hereinafter referred to as “COMMISSIONER”), in the COMMISSIONER’S sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONSULTANT shall comply with the State Comptroller’s procedures to authorize electronic payments. Authorization forms are available at the State Comptroller’s website at www.osc.state.ny.us/epay/index.htm, by email at epunit@osc.state.ny.us, or by telephone at 518-474-4032. CONSULTANT acknowledges that it will not receive payment on any invoices submitted under this contract if it does not comply with the State Comptroller’s electronic payment procedures, except where the COMMISSIONER has expressly authorized payment by paper check as set forth above.

**ARTICLE 8. FINAL PAYMENT.**
a) Section 179 of the State Finance Law requires the STATE to make final payment within thirty (30) calendar days after receipt of an invoice which is properly prepared and submitted. The STATE in accordance with the provisions of the State Finance Law has determined that the STATE will require a 60 calendar day audit period for final payments at which time the 30 calendar day interest-free period will commence. The CONSULTANT is required to make final payment to all Sub Contractors and Sub Consultants within ten (10) calendar days of receipt of final payment from the STATE.

The acceptance by the CONSULTANT of the final payment shall operate as and shall be a release to the STATE from all claims and liability to the CONSULTANT, its representatives and assigns for any and all things done, furnished for or relating to the services rendered by the CONSULTANT under or in connection with this Agreement or for any part thereof except as otherwise provided in ARTICLE 8 (b).

b) The CONSULTANT shall maintain all books, documents, papers, accounting records and other evidence pertaining to cost incurred and make such materials available at its office at all reasonable times during the period of this Agreement and for the period of time specified in Clause No. 10, "Records" of APPENDIX A, for inspection by the STATE, Federal Highway Administration, or any authorized representatives of the Federal Government and copies thereof shall be furnished if requested.

ARTICLE 9. EXTRA WORK.

a) If the CONSULTANT believes that any work is or may be beyond the scope of the Agreement (extra work), or that additional work is necessary, the CONSULTANT shall notify the STATE, in writing, of this fact prior to beginning any of the work. The notification shall include all information required by the Department. The STATE shall be the sole judge as to whether or not such work is in fact beyond the scope of this Agreement and constitutes extra work. No extra or additional work shall be started prior to written authorization from the STATE. The STATE shall be under no obligation to reimburse the CONSULTANT for any extra or additional work performed without the prescribed notification and authorization. The STATE will not allow fixed fee for any extra work undertaken without prescribed notification and authorization. In the event that the STATE determines that such work does constitute extra work, the STATE shall provide extra compensation to the CONSULTANT in a fair and equitable manner. If necessary, a Supplemental Agreement providing the compensation and describing the work authorized shall be issued by the STATE to the CONSULTANT for execution after approvals have been obtained from necessary State officials and, if required, from the Federal Highway Administration.

b) In the event of any claims being made or any actions being brought in connection with the PROJECT, the CONSULTANT agrees to render to the STATE all assistance required by the Department. Work which the CONSULTANT is obligated to perform in accordance with Article 9 hereof shall be performed without cost to the STATE. Compensation for other work performed and costs incurred in connection with this requirement shall be made in a fair and equitable manner. In all cases provided for in this AGREEMENT for the additional services above described, the STATE’s directions shall be exercised by the issuance of a separate Agreement, if necessary.

ARTICLE 10. CONSULTANT LIABILITY.

To the fullest extent permitted by law, the CONSULTANT shall indemnify and save harmless the State, any municipality in which the work is being performed, and/or any public benefit corporation, railroad, or public utility whose property or facilities are affected by the work, from suits, claims, actions, damages and costs, of every name and description arising from the work under its contract during its prosecution and until the final acceptance thereof. The CONSULTANT and any assigns, heirs, or successors in interest shall also indemnify and save harmless, to the fullest extent permitted by law, the consultant inspecting engineer or inspector working for the State relative to the project from suits, claims, actions, damages and costs involving personal injury and property damage arising from the CONSULTANT’s work under the contract during its prosecution and until the final acceptance thereof. The State may retain such monies from the amount due the CONSULTANT as may be necessary to satisfy any claim for damages recovered against the State, any municipality in which the work is being performed, and/or any public benefit corporation, railroad or public utility whose property or facilities are affected by the work or consultant inspecting engineers or inspectors working for the State relative to the project. The CONSULTANT’s obligation under this paragraph shall not be deemed waived by the failure of the State to retain the whole or any part of such monies due the CONSULTANT, nor where such suit, action, damages and/or costs have not been resolved or determined prior to release of any monies to the CONSULTANT under the contract, nor shall such obligation be deemed limited or discharged by the enumeration or procurement of any insurance for liability for damages imposed by law upon the CONSULTANT, Subconsultant or the State, any municipality in which the work is being performed, and/or any public benefit corporation, railroad or public utility whose property or facilities are affected by the work, or any consultants working for the State.
The CONSULTANT has the obligation, at its own expense, for the defense of any action or proceeding which may be brought against the parties specified in this Section. This obligation shall include the cost of attorneys’ fees, disbursements, costs and other expenses incurred in connection with such action or proceeding. Such obligation does not extend to those suits, actions, damages and costs of every name that arise out of the sole negligence of the State, any municipality in which the work is being performed, and/or any public benefit corporation, railroad or public utility whose property or facilities are affected by the contract work, or any consultants working for the State, their agents or employees, relative to the construction, alteration, or repair or maintenance of a building, highway or structure and appurtenances and appliances thereof including moving, demolition and excavating connected therewith.

ARTICLE 11. WORKER'S COMPENSATION AND LIABILITY INSURANCE.

The CONSULTANT shall procure, at its own sole cost and expense, and shall maintain in force at all times during the term of this contract including any extensions or renewals until Contract Final Acceptance, the policies of insurance covering all operations under the contract whether performed by it or its subconsultants as herein below set forth, written by companies authorized by the New York State Insurance Department to issue insurance in the State of New York and that have an A.M. Best Company rating of A minus or better or approved by the Department. The Department may, at its sole discretion, permit the placement of policies with a non-authorized carrier or carriers upon request by the CONSULTANT accompanied by the documentation required by 11 NYCRR §27.0 et seq.; provided that nothing herein shall be construed to require the Department to accept insurance placed with a non-authorized carrier under any circumstances. The CONSULTANT shall deliver to the Department evidence of such policies as the Department deems necessary to verify that the required insurance is in effect.

A. Conditions Applicable to Insurance. All policies of insurance required by this agreement must meet the following requirements:

1. Coverage Types and Policy Limits. The types of coverage and policy limits required from the CONSULTANT are specified in subsection “B,” below. Insurance shall apply separately on a per-job or per-project basis.

2. Policy Forms. Except as may be otherwise specifically provided herein or agreed in writing by the Department, policies must be written on an occurrence basis. In the event that occurrence-based coverage is not commercially available, claims-made policy forms will be considered provided that, at minimum, it includes provisions that allow for (a) reporting circumstances or incidents that may give rise to future claims and (b) an extended reporting period of not less than three (3) years with respect to events that occurred but were not reported during the term of the policy.

3. Certificates of Insurance/Notices. CONSULTANT shall provide a Certificate or Certificates of Insurance, in a form satisfactory to the Commissioner, before commencing any work under this contract. Certificates or transmittal correspondence shall reference the NYSDOT Contract Number C031290. Certificates shall be mailed to the:

New York State Department of Transportation  
Contract Management, 6th Floor  
50 Wolf Rd.  
Albany, NY 12232

Unless otherwise agreed, policies shall be written so as to require that the policy will not be (i) canceled, (ii) materially changed or (iii) permitted to expire or lapse for any reason except upon thirty (30) days’ prior written notice to the Department by Certified Mail, return receipt requested at the stated address. In addition, if required by the Department, the CONSULTANT shall deliver to the Department within Forty-Five (45) days of such request a copy of any or all policies of insurance not previously provided, certified by the insurance carrier as true and complete. Certificates of Insurance shall:

a. Be in the form provided by the Department (C218 or successor) unless the Department specifically approves a different form. The ACORD forms of Certificate of Insurance are not acceptable.

b. Be signed by an authorized representative of the insurance carrier or producer and be acknowledged before a notary public.

c. Disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by the contract.

d. Specify the Additional Insureds and Named Insureds as required herein.
e. Refer to this Contract by number on the face of the certificate, and

f. Expressly reference the inclusion of all required endorsements.

g. If at any time during the term of this contract, it shall come to the attention of the Department that required insurance is not in effect or that adequate proof of insurance has not been provided, the Department may, at its option:

(1) Direct the CONSULTANT to suspend work and not re-enter the premises with no additional payment or extension of time due on account thereof, or

(2) May withhold further contract payments in accordance with Article 8, or

(3) Treat such failure as a breach or default of the contract.

4. **Additional Insureds.** All insurance policies required, by these specifications except workers’ compensation and professional liability shall be endorsed to provide coverage to “The State of New York/New York State Department of Transportation, any municipality in which the work is being performed, any public benefit corporation, railroad, or public utility whose property or facilities are affected by the work, and their agents or employees” with respect to any claim arising from the CONSULTANT’s Work under this contract or as a result of the CONSULTANT’s activities. The endorsement shall be effected by endorsement of the applicable policy using ISO form CG 20 10 11 85, CG 20 37 07 04, CG 20 33 07 98 when used in combination with CG 20 37 07 04, or CG 20 33 10 01 or a form (or forms) that provides equivalent coverage.

5. **Primary Coverage.** All insurance policies, excepting workers’ compensation, shall provide that the required coverage shall be primary as to any other insurance that may be available to the Department for any claim arising from the CONSULTANT’s Work under this contract, or as a result of the CONSULTANT’s activities.

6. **Waiver of Subrogation.** As to every type and form of insurance coverage required from the CONSULTANT, there shall be no right of subrogation against the State of New York/New York State Department of Transportation, its agents or employees. To the extent that any of CONSULTANT’s policies of insurance prohibit such a waiver of subrogation, CONSULTANT shall secure the necessary permission to make this waiver.

7. **Policy Renewal/Expiration.** At least thirty (30) days prior to the expiration of any policy required by this contract, evidence of renewal or replacement policies of insurance with terms no less favorable to the Department than the expiring policies shall be delivered to the Department in the manner required for service of notice in subdivision (A)(3) above.

8. **Self-Insured Retention/Deductibles.** Consultants utilizing self-insurance programs are required to provide a description of the program for Department approval. Collateralized deductible and self-insured retention programs administered by a third party may be approved. Except as may be specifically provided in the Contract Documents of a particular project, CONSULTANT-administered insurance deductible shall be limited to the amount of the bid deposit or $100,000, whichever is less. Security is not required if it is otherwise provided to an administrator for an approved risk management program. The Department will not accept a self-insured retention program without security being posted to assure payment of both the self-insured retention limit and the cost of adjusting claims. The CONSULTANT shall be solely responsible for all claim expense and loss payments within any permitted deductible or self-insured retention. If the CONSULTANT’s deductible in a self-administered program exceeds the amount of the bid deposit, the CONSULTANT shall furnish an irrevocable Letter of Credit as collateral to guarantee its obligations. Such Letter of Credit or other collateral as may be approved by Department must be issued by a guarantor or surety with an AM Best Company rating of “A minus” or higher. If, at any time during the term of this agreement, the Department, in its sole discretion, determines that the CONSULTANT is not paying its deductible, it may require the CONSULTANT to collateralize all or any part of the deductible or self-insured retention on any or all policies of insurance or, upon failure to promptly do so, the same may be withheld from payments due the CONSULTANT.

9. **Waiver of Indemnities.** The CONSULTANT waives any right of action it and/or its insurance carrier might have against the Department (including its employees, officers, commissioners, or agents) for any loss that is covered by a policy of insurance that is required by this contract. The
CONSULTANT waives any right of action it and/or its insurance carrier might have against the Department (including its employees, officers, commissioners, or agents) for any loss, whether or not such loss is insured.

B. Insurance Requirements. The types of insurance and minimum policy limits shall be as follows:

1. Workers’ Compensation and Disability Insurance. As required by State Finance Law §142, CONSULTANT shall maintain in force workers’ compensation insurance upon forms required by or acceptable to the Workers Compensation Board for all of CONSULTANT’s employees. CONSULTANT shall also maintain disability insurance as required by the Disability Benefits Law of the State of New York.

2. Commercial General Liability Insurance. CONSULTANT shall maintain an occurrence form commercial general liability policy or policies insuring against liability arising from premises (including loss of use thereof), personal injury or death, advertising injury, liability insured under an insured contract (including the tort liability of another assumed in a business contract) occurring on or in any way related to the premises or occasioned by reason of the operations of CONSULTANT. Such coverage shall be written on an ISO occurrence form (ISO Form CG 00 01 12 07 or a policy form providing equivalent coverage) in an amount of not less than $1,000,000.00 per occurrence and not less than $2,000,000.00 aggregate. Unless otherwise provided, the policy or policies of insurance providing the liability coverage shall include:

   (1) Coverage for liability contractually assumed by the CONSULTANT.

   (2) All insurance policies required by these specifications except workers’ compensation and professional liability shall be endorsed to provide coverage to “the State of New York/New York State Department of Transportation, any municipality in which the work is being performed, any public benefit corporation, railroad, or public utility whose property or facilities are affected by the work,” using ISO form CG 20 10 11 85, CG 20 37 07 04, CG 20 33 07 98 when used in combination with CG 20 37 07 04, or CG 20 33 10 01 or a policy form or forms providing equivalent coverage.

3. Commercial Automobile Insurance including liability and required coverage for New York. In the event that automobiles are used in connection with CONSULTANT’s business or operations with the Department, CONSULTANT shall maintain a commercial or other automobile policy or policies insuring against liability for bodily injury, death, or damage to property and other mandatory coverages, relating to the use, operation, loading or unloading of any of CONSULTANT’s automobiles (including owned, hired and non-owned vehicles) on and around the project. This should be ISO form CA 00 01 10 01, CA 00 01 01 87 or a policy form providing equivalent coverage along with mandatory New York endorsements. Coverage shall be in an amount of not less than $1,000,000.00 each accident.

4. Consultant's Risks. The CONSULTANT shall be responsible for obtaining any insurance it deems necessary to cover its own risks, including without limitation: (a) business interruption, such as gross earnings, extra expense, or similar coverage, (b) personal property, and/or (c) automobile physical damage and/or theft. In no event shall the Department be liable for any damage to, or loss of, personal property, or damage to, or loss of, an automobile that is covered by a policy of insurance that is required by this agreement, even if such loss is caused by the negligence of the Department.

ARTICLE 12. INTERCHANGE OF DATA.

All technical data in regard to the PROJECT existing in the office of the STATE or existing in the offices of the CONSULTANT shall be made available to the other party to this Agreement without expense to such other party.

ARTICLE 13. DISPOSITION OF DATA.

At the time of completion of the work, the CONSULTANT shall make available to the STATE all documents and data pertaining to the work or to the PROJECT which materials at all times shall be the property of the STATE. It is agreed that the CONSULTANT may maintain copies of all documents and data. Or in the event that this Agreement is terminated for any reason, then, within ten (10) days after such termination, the CONSULTANT shall make available to the STATE the aforementioned data and material.

ARTICLE 14. DAMAGES AND DELAYS.
The CONSULTANT agrees that no charges or claim for damages shall be made by them for any delays or hindrances from any cause whatsoever during the progress of any portion of the services specified in this AGREEMENT. Such delays or hindrances, if any, shall be compensated for by an extension of time for such reasonable period as the STATE may decide, it being understood however, that the permitting of the CONSULTANT to proceed to complete any services or any part of them after the date of completion or after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the STATE of any of its rights herein. Nothing in this ARTICLE will prevent the CONSULTANT from exercising its rights under ARTICLE 8 of this AGREEMENT.

ARTICLE 15. NOTICE OF BANKRUPTCY, VENUE, AUDITS.

If, prior to final audit, CONSULTANT files for relief pursuant to Title 11 of the United States Code under the Bankruptcy Laws or a successor statute, this AGREEMENT shall be treated as an executory contract under 11 USC S365 of the Bankruptcy Laws or successor statute, and be subject to assumption or rejection by the debtor within the time permitted by law.

The CONSULTANT must immediately send written notice to Contract Management of the New York State Department of Transportation at its main office in Albany and send all relevant pleading of the voluntary or involuntary filing of a Bankruptcy proceeding by the CONSULTANT, its subsidiary, its principals and officers or a related entity whether or not the CONSULTANT believes that any debt is owed to the State by final audit or otherwise.

The determination of any rights under this AGREEMENT shall be adjudicated in a State or Federal Court with jurisdiction over the matter, and venue for the determination of such rights shall be in Albany, New York.

The CONSULTANT agrees that the automatic stay under 11 USCS 362 or a successor statute shall be deemed inapplicable or that this agreement shall constitute consent to the lifting of the stay with respect to the State’s performance of or completion of any audit pursuant to the terms of this AGREEMENT.

ARTICLE 16. TERMINATION.

The STATE shall have the absolute right to terminate this Agreement, and such action shall in no event be deemed a breach of contract:

(a) If a termination is brought about for the convenience of the STATE and not as a result of unsatisfactory performance on the part of the CONSULTANT, final payment shall be made based on the percentage of work satisfactorily completed by the CONSULTANT, as determined by the STATE, times the Lump Sum amount.

(b) If the termination is brought about as a result of unsatisfactory performance on the part of the CONSULTANT, the value of the work performed by the CONSULTANT prior to termination shall be established by the STATE.

(c) The STATE reserves the right to terminate this AGREEMENT in the event it is found that the certification filed by the CONSULTANT in accordance with the requirements contained in State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the STATE may exercise its termination right by providing written notification to the CONSULTANT in accordance with the written notification terms of the AGREEMENT.

ARTICLE 17. DEATH OR DISABILITY OF THE CONSULTANT.

In case of the death or disability of one or more but not all the persons herein referred to as CONSULTANT, the rights and duties of the CONSULTANT shall devolve upon the survivors of them, who shall be obligated to perform the services required under this AGREEMENT, and the STATE shall make all payments due to them.

In case of the death or disability of all the persons herein referred to as CONSULTANT, all data and records pertaining to the PROJECT shall be delivered within (60) days to the STATE or its duly authorized representative. In case of the failure of the CONSULTANT’S successors or personal representatives to make such delivery on demand, then in that event the representatives of the CONSULTANT shall be liable to the STATE for any damages it may sustain by reason thereof. Upon the delivery of all such data to the STATE, the STATE will pay to the representatives of the CONSULTANT all amounts due the CONSULTANT, including retained percentages to the date of the death of the last survivor.

ARTICLE 18. CODE OF ETHICS.

The CONSULTANT 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 CONSULTANT shall not engage, on a full or 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.

ARTICLE 19. INDEPENDENT CONTRACTOR.

The CONSULTANT, in accordance with their status as an independent contractor, covenants and agrees that they will conduct themselves consistent with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the STATE by reason hereof, and that they will not, by reason hereof, 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 20. COVENANT AGAINST CONTINGENT FEES.

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working for the CONSULTANT, to solicit or secure this AGREEMENT, and that they have 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. 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 AGREEMENT price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE 21. TRANSFER OF AGREEMENT.

The CONSULTANT specifically agrees, as required by the State Finance Law, Section 138, that they are prohibited by law from assigning, transferring, conveying, subletting or otherwise disposing of the AGREEMENT or of their right, title or interest therein, or their 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 be violated, the STATE shall revoke and annul the Agreement and the STATE shall be relieved from any and all liability and obligations thereunder to the person, company or corporation to whom the CONSULTANT shall assign, transfer, convey, sublet or otherwise dispose of the Agreement, and such transferee shall forfeit and lose all moneys therefore assigned under said Agreement, except so much as may be required to pay his employees.

ARTICLE 22. PROPRIETARY RIGHTS.

The CONSULTANT agrees that if copyrights, patentable discoveries or inventions or rights in data should result from work described herein, all rights accruing from such discoveries or inventions shall be the sole property of the CONSULTANT. However, the CONSULTANT agrees to and does hereby grant to the United States Government and the State of New York an irrevocable, nonexclusive, nontransferable, paid-up license to reproduce, publish, make, use, and sell each subject invention throughout the world by and on behalf of the Government of the United States and States and domestic municipal governments, all in accordance with the provisions of 48 CFR 1-27, and other applicable Federal laws, rules and regulations.

ARTICLE 23. SUBCONTRACTORS/SUBCONSULTANTS.

All subcontractors and subconsultants performing work on this project shall be bound by the same required contract provisions as the prime CONSULTANT. All agreements between the prime CONSULTANT and a subcontractor or subconsultant shall include all standard required contract provisions, and such agreements shall be subject to review by the State.

ARTICLE 24. ORDER OF PRECEDENCE.

In the event of any inconsistency between or among the provisions and contents of this AGREEMENT, it is agreed that such inconsistency shall be resolved in the following descending order of precedence:

1. APPENDIX A,
2. The provisions required by state and federal law to be inserted in the AGREEMENT as set forth in APPENDIX A-1, APPENDIX B, and APPENDIX C;
3. This AGREEMENT, including Signature Page, Notary Page and Exhibits;
4. SCHEDULE A (including Exhibits);
5. SCHEDULE B (including Exhibits);
5. The STATE’s Request for Proposals; and
6. The CONSULTANT’s Proposal.

ARTICLE 25. CERTIFICATION REQUIRED BY 49CFR, PART 29.

The signatory to this Agreement, being duly sworn, certifies that, EXCEPT AS NOTED BELOW, its company and any person associated therewith in the capacity of owner, partner, director, officer, or major stockholder (five percent or more ownership):

1) is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
2) has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
3) does not have a proposed debarment pending; and
4) 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.

EXCEPTIONS:

ARTICLE 26. CERTIFICATION FOR FEDERAL-AID CONTRACTS.

The prospective participant certifies, by signing this Agreement 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 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.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such subrecipients shall certify and disclose accordingly.

ARTICLE 27. RESPONSIBILITY OF THE CONSULTANT.

(a) The CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all services furnished by the CONSULTANT under this AGREEMENT. The CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its services. However, the STATE may in certain circumstances, provide compensation for such work.

(b) Neither the STATE’s review, approval or acceptance or, nor 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 action arising out of the performance of this AGREEMENT, and the CONSULTANT shall be and remain liable to the STATE in accordance with applicable law for all damages to the STATE caused by the CONSULTANT’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 CONSULTANT is comprised of more than one legal entity or any group of partners or joint venturers associated for the purposes of undertaking this agreement, each such entity acknowledges and hereby affirmatively represents and agrees that each has the power to bind the CONSULTANT and each of the others hereunder; and as such, each acts both as principal and agent of the CONSULTANT and of each of the others hereunder.
Each further acknowledges and agrees that all such entities, partners or joint venturers associated for the purposes of undertaking this agreement shall be jointly and severally liable to third parties, including but not limited to the STATE, for the acts or omissions of the CONSULTANT or any other entity, partner or joint venturer hereunder.

(e) If the CONSULTANT is comprised of more than one legal entity or any group of partners or joint venturers associated for the purposes of undertaking this agreement, each such entity acknowledges and hereby affirmatively represents and agrees that the respective rights, duties and liabilities of each hereunder shall be governed by the laws of the State of New York, including but not limited to the New York Partnership Law.

ARTICLE 28. SECURITY AND CONFIDENTIALITY OF INFORMATION.

Information received as part of this AGREEMENT shall be considered Confidential Information. The CONSULTANT warrants that it will take the appropriate steps as to its personnel, agents, officers and any SUBCONTRACTOR/SUBCONSULTANTS regarding the obligations arising under this clause to insure such confidentiality. The CONSULTANT shall have written policies and/or business procedures in place which will protect Confidential Information from unauthorized disclosure, use, access, loss, alteration or destruction. The CONSULTANT may disclose to other parties, as authorized by the NYSDOT Project Manager, or as described in the scope of services, only the information necessary to perform services under this AGREEMENT. However, the CONSULTANT shall in no circumstance, communicate with the public or news media without prior authorization from the States designee. Neither shall the CONSULTANT disclose information deemed confidential by the State nor shall the CONSULTANT disclose any other information obtained or developed in the performance of services under this agreement without the written authorization of the State. This warranty shall survive termination of this AGREEMENT.

The CONSULTANT shall comply with the provisions of the New York State Information Security Breach and Notification Act, including General Business Law Section §889-aa and State Technology Law §208 as enacted by such Act or subsequently amended. In the event of an information security breach resulting in the unauthorized disclosure of personal information, CONSULTANT shall be liable for the costs associated with such breach if caused by CONSULTANT’s negligent or willful acts or omissions, or the negligent or willful acts or omissions of the CONSULTANT’s agents, officers, employees or SUBCONSULTANTS.

ARTICLE 29. VENDOR RESPONSIBILITY.

The Department of Transportation has undertaken an affirmative review of the proposed consultant’s responsibility in accordance with the applicable standards outlined in Comptroller’s ‘Guide to Financial Operations’, and based upon such review, reasonable assurance that the proposed contractor is responsible has been determined.

a) The CONSULTANT shall at all times during the Contract term remain responsible. The CONSULTANT agrees, if requested by the Commissioner of Transportation or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

b) The Commissioner of Transportation or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the CONSULTANT. In the event of such suspension, the CONSULTANT will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the CONSULTANT must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Transportation or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

c) Upon written notice to the CONSULTANT and a reasonable opportunity to be heard with appropriate NYSDOT officials or staff, the Contract may be terminated by the Commissioner of Transportation or his or her designee at the CONSULTANT’S expense where the CONSULTANT is determined by the Commissioner of Transportation or his or her designee to be non-responsible. In such event, the Commissioner of Transportation or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

ARTICLE 30. CONSULTANT DISCLOSURE LEGISLATION.

In accordance with Chapter 10 of the Laws of 2006, the CONSULTANT shall complete the “State Consultant Services Contractor’s Annual Employment Report” (Form B, RFP Attachment 4) and submit copies to the Office of the State Comptroller, the Department of Civil Service, and the Department of Transportation on or before May15th of each year the contract is in effect. The CONSULTANT shall provide information regarding all employees providing service under this contract, whether employed by the CONSULTANT or any subconsultant or subcontractor. Form B will capture historical information, detailing actual employment data for the most recently concluded State fiscal year (April
1st to March 31st). Annual employment reports should be submitted to the following three agencies. It is recommended, however, that consultants check the agency websites annually to confirm the addresses.

By mail:
- NYS Office of the State Comptroller
  Bureau of Contracts
  110 State Street, 11th Floor
  Albany, N. Y. 12236
  Attn: Consultant Reporting

- NYS Department of Civil Service
  Alfred E. Smith Building
  Albany, N. Y. 12239
  Attn: Chapter 10 Counsel’s Office

- NYS Department of Transportation:
  Reports that are submitted to the NYS Department of Transportation must be submitted electronically, preferably as a Word, Excel or pdf file via email to: Timothy.Ameche@dot.ny.gov or his successor.

ARTICLE 31. NOTICES.

Item 1. All notices permitted or required hereunder shall be in writing and shall be transmitted either:
(a) via certified or registered United States mail, return receipt requested;
(b) by facsimile transmission;
(c) by personal delivery;
(d) by expedited delivery service; or
(e) by e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time to time designate:

New York State Department of Transportation:
- **Contact Person’s Name:** William A. Howe, Contract #C031290
- **Title:** Director
- **Address:** NYSDOT Contract Management Bur., 6th Fl., 50 Wolf Road, Albany, NY 12232
- **Telephone Number:** 518-457-2600
- **Facsimile Number:** 518-457-2874
- **E-Mail Address:** bill.howe@dot.ny.gov

Such notices shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

Item 2. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.
ARTICLE 32. TITLE VI ASSURANCE.

During the performance of this contract, the consultant or contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

(1) Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter “FHWA”) Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.

(4) Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT’s Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

(a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
(b.) cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 33. IT PROJECT REQUIREMENTS. [Pertinent only to any new IT Project Development Work or any new IT application developed under this Agreement.]

1. Definitions. As used in any of the documents forming this Agreement, the following terms shall have the following meanings (bold font added here only for emphasis):

- "Consultant-Owned Software" and/or “Proprietary Software” means Software developed and owned by the Consultant or its subcontractors which either pre-exists, or whose development is not funded by this Agreement.
- "Commissioner” means the Commissioner of Transportation of the State of New York or their duly authorized representative.
• "Developed Software" means any and all Software and associated documentation that are specific to the Project Scope of Services and Deliverables developed under this Agreement.

• "Enhancement" shall mean any changes or additions to Software, other than Maintenance Releases, New Versions, or modifications, tailoring and/or customizations resulting from Integration Services that improve features or functions, add new features or functions, or improve performance.

• "Equipment" for Commercial-Off-the-Shelf Software or Consultant-Owned Software, Equipment consists of any computer or computer system on which such software may be used pursuant to the relevant license; for Developed Software, Equipment consists of any computer or computer system.

• “Error” shall mean any error, problem, or defect resulting from: (i) incorrect coding, or (ii) any failure of a deliverable to meet specifications.

• "FHWA" means the Federal Highway Administration, an operating administration of the U.S. Department of Transportation.

• "Licensed Software" means any Consultant-Owned Software and any Third-Party Software provided by the Consultant pursuant to this Agreement.

• "Government" means the U.S. Government acting through FHWA.

• "Integration Services" shall mean the programming and technical support provided by the Consultant to develop modifications to the Software, including services to tailor and customize Software to the Project, as such services may be set forth in the Scope of Services.

• "Intellectual Property" means all tangible and intangible property rights, including, but not limited to copyrights, patents, trademarks, trade secrets and any other form of intellectual property rights covering the source code, any databases, software, inventions, training manuals, content, menu structure, speech or sound files, vocabulary, HTML pages/code, graphics, data, look-and-feel, passwords, passwords, encryptions, phone numbers, domain names, systems design, formulas, methods, or other proprietary information in any form or medium.

• "Maintenance Release" shall mean an error correction, maintenance or emergency release of Software, including any modifications or revisions to Software which correct errors in Software.

• "New Version" shall mean a new release of Software, other than Enhancements, Maintenance Releases or modifications, tailoring and/or customization resulting from Integration Services, or a new option not previously available which add to Software significant new features, functions or capabilities or significant improvements in performance. Such new Release/option shall be deemed a New Version rather than a Maintenance Release only if and so long as Consultant continues to maintain, enhance and market the Software without such new Release/option and generally charges its maintenance clients an additional charge.

• "Open Source Software" shall mean any software obtained under a license that permits unrestricted use, modification, and redistribution in modified or unmodified form. A subset of open source licenses also require that redistribution (in modified or unmodified form) be accompanied by corresponding source code. Any Open Source Software and the license applicable to it shall be subject to the State’s review and approval prior to use.

• "Payment Schedule" means the items, amounts associated therewith and the compensation method and compensation schedule set forth in Schedule B.

• “Piggyback Contract” means a Contract let by any department, agency or instrumentality of the United States government, or any department, agency, authority, office, political subdivision or instrumentality of any state or state(s) which is adopted and extended for use by the OGS Commissioner in accordance with the requirements of the State Finance Law.

• "Project" means the provision or development of testing, evaluation, deployment and support for any IT-related aspects of NYSDOT’s ATDM Program, as more fully described in this Agreement’s Scope of Services.

• "Production System" means an automated application or process that is used by NYSDOT to conduct day-to-day business.
• "Scope of Services" means Schedule A – Scope of Service of this Agreement.
• "Software" means the computer programs (including any security devices) in object (and, in the case of Developed Software, also source code) form, in whole or part, provided by the Consultant under this Agreement, regardless of media type, including all or any portions of the Software incorporated in another program. Software shall, as appropriate, include Documentation and Maintenance Releases. This includes any software provided by NYSDOT for modification by the Consultant while under this Agreement per this Agreement’s Scope of Services.
• "Software Modification" shall mean any products resulting from Integration Services, modification, tailoring, and/or customization of Software excluding Maintenance Releases, Enhancements or New Versions, performed to Software by or on behalf of the Consultant for the Project as set forth in the Scope of Services.
• "Software Documentation" means the manuals, installation instructions and other materials which are provided with the Software whether in printed form or otherwise.
• "Subsystem" means an automated application or process that incorporates the capabilities, features, data and/or reporting required of a specific business function or process and that may or may not integrate with other subsystems to serve an enterprise need. For example: General Ledger, Purchasing, Accounts Payable, Accounts Receivable, Inventory Accounting, etc., are all subsystems of an enterprise Finance Information System.
• "System Documentation" means any manuals, reports, instructions and other materials for design specifications, programming specifications operating and maintenance instructions acquired or developed by the Consultant for the Project.
• "Support Services" shall mean the support services provided by the Consultant per the Project’s Scope of Services in respect to the Software and may include any support services provided in respect to Maintenance Releases, enhancements and/or new versions made to the Software.
• "Third-Party Commercial-Off-The-Shelf Software" means Software that is ready-made and available for sale, lease, or license to the general public, with functionality and complexity defined by market need and which is not developed by the Consultant or its subcontractors for the Project, but which is acquired commercially and provided by the Consultant.
• "Third-Party Software" means any Software provided by the Consultant as part of this Project which is not Consultant-Owned or Developed Software, including but not limited to, Third-Party Commercial-Off-The-Shelf software or Open Source Software.
• "User Documentation" means manuals, instructions and other materials acquired, provided or developed by the Consultant for the Project per the Scope of Services.

2. IT Project Management. Any IT Project or any IT application under this Agreement shall be performed under the direction and contract administration of NYSDOT and in accordance with the New York State IT Project Management Methodology, as defined in the New York State Project Management Guidebook.

3. Annual Maintenance & Support. Annual costs for maintenance and optional maintenance renewals are calculated based on the number of such items called for under this Agreement and the applicable item-based pricing level thereunder, to be paid for according to the schedule set forth in Schedule B.

4. Third Party Claims. If a third-party claim causes NYSDOT’s quiet enjoyment and use of any ATMD Program IT project, aspect, functionality or component thereof (IT Project) to be to be seriously endangered or disrupted, and that claim is based on acts or omissions of the Consultant, its subcontractors, or the respective employees of agents of the aforesaid, the Consultant shall: 1) replace such IT Project, without additional charge, by a compatible, functionally equivalent and non-infringing product; 2) modify such IT Project to avoid the infringement; 3) obtain a license for NYSDOT to continue use of such IT Project for the term of this Agreement and pay for any additional reasonable fee required for such license; or, 4) if none of the foregoing alternatives are possible even after the Consultant’s best efforts, the Consultant shall refund a pro rata portion of the entire license fee based on five years, according to the schedule set forth below, and discharge NYSDOT from its obligation to pay any further license or other fees under this Agreement.
### Schedule of Refund

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5. **Disputed Work.** If Consultant is of the opinion that any work ordered by NYSDOT to be done as contract work is extra work and not contract work, or that any order of NYSDOT exceeds the work requirements of this Agreement, Consultant shall promptly, within ten (10) work days of receipt of the order or direction, so notify NYSDOT's Project Manager, in writing, explaining Consultant's contention. Consultant must progress the work as required and ordered. In the meantime, Consultant, if it considers the issue unresolved, shall promptly, within ten (10) work days of receipt of NYSDOT's written decision, notify the Commissioner, in writing with copies to the Project Manager, of its contentions relative to the dispute, indicating the substance of previous communication with the Project Manager on the issue and its rebuttal of the previous findings. The Commissioner or his/her designated representative shall make a finding thereon and notify Consultant of same in writing in a timely manner. If such work is determined by the Commissioner or his/her designee to be extra work pursuant to the provisions of this Article, NYSDOT will initiate a Supplemental Agreement. If the Commissioner or his/her designated representative determines that the work in question is contract work and not extra work, or that the order complained of is proper, he/she shall again direct Consultant to continue the disputed work, and Consultant must promptly comply. Consultant's right to pursue a dispute under this Article for extra compensation will not be affected in any way by Consultant's complying with the directions of the Commissioner or the Project Manager to proceed with the work, provided Consultant continues to keep and furnish documentation of the extra work claimed.

6. **Copyright and Patent Indemnity.** The Consultant shall defend, indemnify and shall hold harmless (including reasonable attorneys' fees) the State, NYSDOT, and any employee or agent thereof (each of the foregoing being hereinafter referred to as the "Indemnified Party") against all liability to third parties (other than liability solely the fault of the Indemnified Party) arising from or attributable to a breach of warranty, negligent or intentional act or omission of the Consultant, its subcontractors, or the respective employees or agents of the aforesaid, or the possession or use by NYSDOT, of the System, including (but not limited to) for the violation of any third party's trade secrets, proprietary information, trademark, copyright, or patent rights in connection with such System. A party requesting such indemnification shall give the Consultant prompt notice of such a claim. Consultant shall conduct the defense in any such third party action arising as described herein and NYSDOT shall fully cooperate with such defense. This indemnification is limited to the System including modifications thereto made by the Consultant or with the Consultant's knowledge and consent and does not cover third party claims arising from modifications not authorized by or performed with the knowledge of the Consultant or the use of the System in a combination or in a manner not specified by the Consultant. The provisions of this Article shall not impinge on the right of any of the State to pursue its own defense in any filed or threatened actions.

7. **Intellectual Property Rights to Licensed Software.** Intellectual property rights to Software other than that governed by Article 11 hereof are as follows:

a. **Third-Party Software.** Third-Party Software utilized under this project will be provided on a royalty-free basis to NYSDOT with, as applicable, such other license terms as negotiated between the Consultant and the third-party or for Commercial-Off-The-Shelf (COTS) software with such terms as provided under the relevant shrink-wrap license.

b. **Consultant-Owned Software.** This Software is provided by Consultant to NYSDOT, in accordance with the following terms:

1. Consultant grants a royalty-free, perpetual, transferable, nonexclusive and irrevocable license for all Intellectual Property related to the Licensed Consultant-owned Software for authorized users of any IT Project software under NYSDOT's ATMD Program (including entities outside of NYSDOT).
2. Such Software licenses shall include in their meaning: 1) any Maintenance Releases, enhancements or New Versions of such Software developed by Consultant or its subcontractors during the term of this Agreement within the Scope of Services or otherwise provided by Consultant or its subcontractors to any NYSDOT ATDM Program IT Project software and enhancements related thereto; and 2) all materials, including but not limited to training materials, documentation, and technical information provided to NYSDOT in written form and for use in connection with such Software.

3. Consultant warrants that it has full power and authority to grant the rights granted by this subarticle to NYSDOT with respect to such Software without the consent of any other person and that neither the performance of services by Consultant nor the license to and use by NYSDOT of the Software, Software Modification, and Software documentation (including the copying and modifying thereof, exclusive of modifications not made by Consultant) will in any way constitute an infringement or violation of any copyright, trade secret, trademark, patent, invention, proprietary information, non-disclosure, contract or any other rights of any third party.

4. Consultant warrants such Software, Software Modification, its license as described herein, and the performance by Consultant of services, to be in compliance with all applicable laws, rules and regulations.

8. Intellectual Property Developed Under This Agreement. Rights to intellectual property developed under this Agreement shall be allocated and owned in accordance with the following:

a. Federal Law. The applicable provisions of Federal Law and regulation provide for the non-Federal parties of an agreement to retain all intellectual property rights developed under this Agreement, subject further to the provisions defining, identifying, allocating, or restricting such rights otherwise set forth herein.

b. Identification of Intellectual Property. Consultant is responsible for identifying and segregating, in advance, intellectual property that was or will be developed by Consultant or its subcontractors under this Agreement, solely with non-federal funding.

c. Trade Secrets. The parties shall not publicly disclose information they obtain as a result of this Agreement where such information is marked and identified as proprietary or confidential, and which consists of information such as trade secrets or commercial or financial information that is privileged or confidential within the meaning of '552(b)(4) of Title 5, U.S.C.

d. FHWA License. Under the FHWA Grant Agreement, the FHWA has reserved a royalty-free, perpetual, transferable, nonexclusive, and irrevocable license to reproduce, publish, modify, or otherwise use in any media which exists currently or in the future, and to authorize others to use any such copyrightable work produced under this Agreement with Federal funds, for Federal Government purposes.

e. Patents. Rights to inventions made under this Agreement shall be determined in accordance with 37 C.F.R. Part 401. The standard patent rights clause at 37 C.F.R. Section 401.14, as modified below, is hereby incorporated by reference.

(i) The terms "to be performed by a small business firm or domestic nonprofit organization" shall be deleted from paragraph (g)(1) of the clause;

(ii) Paragraphs (g)(2) and (g)(3) of the clause shall be deleted; and

(iii) Paragraph (1) of the clause, entitled "Communications" shall read as follows: "(1) Communications. All notifications required by this clause shall be submitted to the FHWA Division Office."

f. Backups. Consultant shall maintain weekly backups of source code developed, content, and files free from passwords, encryption, or malicious or time-triggered code, and make such backups available upon NYSDOT request.

9. Escrow and Modification of Source Code. Consultant shall place a copy of the source codes of any Consultant-Owned Software and any proprietary or custom-developed software (for any IT Projects under this Agreement) or subcontractor-Owned Software into escrow with a licensed escrow agent subject to approval by NYSDOT. NYSDOT approval shall not be unreasonably withheld.

10. Delivery of Developed Software. All source and object codes for the Developed Software, i.e., all software custom developed for any IT Project or any IT application under this Agreement, shall be provided to NYSDOT
during System Implementation to support the maintenance of ATDM IT Project. This will include the software, documentation of the customization, and training materials for the maintenance of the customized software.

11. **Training, Support and Maintenance.** Consultant shall offer training in the use and implementation of any IT Project or any IT application under this Agreement and any COTS, Developed or Consultant-Owned Software, to NYSDOT staff, consultant, and other structure owners, including but not limited to municipalities, state and local authorities, commissions, and railroads that will be using any IT Project or any IT application under this Agreement, in accordance with the RFP and any other part of this Agreement.

   a. **Scope and Duration of Consultant Maintenance and Support of Proprietary, Developed, and/or Licensed Third-Party Software and Systems.** Following initial installation and implementation of the proprietary, developed, or licensed third-party software and related systems involved in the project underlying this Agreement, Consultant shall provide ongoing maintenance and support during the term of this Agreement for such software and systems. Consultant shall, at a minimum, provide NYSDOT with the same level of maintenance and support for Consultant’s proprietary, developed, and/or licensed software that Consultant provides to other institutional clients and customers.

   b. **Terms and Conditions of Maintenance.** The maintenance to be provided by Consultant under Article 33.10(a) of this Agreement shall include, but not be limited to, providing new releases or updates if issued, and/or patches or bypasses, to address any known problem, i.e., any substantial deviation of unmodified software or systems from their then applicable specifications. Consultant shall provide access to the current version of such software and systems. Consultant’s obligation to provide ongoing maintenance shall be limited to the then current version of such software and/or systems, and the immediately preceding version of same for a period of twelve (12) months after it is first superseded. Subject to such additional terms and conditions as may be set forth in Requirements of the RFP, and any other part of this Agreement, Consultant shall, at a minimum, provide NYSDOT with the same level of maintenance for Consultant’s proprietary, developed, and/or licensed software that Consultant provides to other institutional clients and customers.

   c. **Scope and Duration of Consultant Support for NYSDOT Usage of Proprietary, Developed, and/or Licensed Third-Party Software.** The Consultant shall provide technical support during NYSDOT’s installation and implementation of the Developed or Consultant-Owned Software and Systems as set forth in Requirements of the RFP, and any other part of this Agreement. Following the initial installation and implementation of the proprietary, developed, or licensed third-party software and related systems involved in the project underlying this Agreement, Consultant shall provide ongoing technical support during the term of this Agreement for NYSDOT usage of such software and systems, which shall cover the software and systems, be of the scope and duration, include the types of support, and be conducted in accordance with the requirements set forth in Requirements of the RFP and any other part of this Agreement.

   d. **Terms and Conditions of Support:**

   1. Subject to such different or additional terms and conditions as may be set forth in Requirements of the RFP, and any other part of this Agreement, Consultant may be required, at a minimum, to provide support through a toll-free “800” telephone number connection to Consultant’s technical support staff, and through an Internet website though which NYSDOT staff may contact Consultant’s technical support staff, at least during the business hours of 7:30 am to 5:00 pm Eastern Standard Time, Monday through Friday, excluding state holidays, in order to present inquiries and/or requests for support and technical assistance, and to obtain such assistance.

   2. In accordance with the provisions of the Requirements of the RFP, and any other part of this Agreement providing NYSDOT with access to the current version of the proprietary, developed, or licensed third-party software and related systems involved in the project underlying this Agreement, Consultant’s obligation to provide ongoing support shall be limited to the then current version of such software and/or systems, and the immediately preceding version of same, for a period of twelve (12) months after it is first superseded.

12. **System Acceptance.** If NYSDOT determines that any IT Project or any IT application under this Agreement has not successfully completed the requirements of the system acceptance during the System Implementation Phase, NYSDOT shall promptly notify Consultant, in writing (hereinafter referred to as “notice of failure”), and shall specify with as much detail as possible in which respects the System does not perform properly. The Consultant shall respond within ten (10) business days with an action plan and schedule to address all issues related to the failure(s). NYSDOT may approve, require changes to, or reject the plan. If NYSDOT rejects the action plan
provided by the Consultant in response to the notice of failure, NYSDOT may determine that such rejection means that the Consultant is in material default under this Agreement for the purposes of the default and termination provisions of this Agreement or may, at its sole discretion, afford the Consultant with additional opportunity to cure the default.

a. **Repeated Failure Constituting Material Breach.** If the System fails to perform properly in accordance with the system acceptance for a second time, NYSDOT may determine that such failure constitutes a material default under this Agreement for the purposes of the default and termination provisions of this Agreement or may afford the Consultant with additional opportunity to cure the default.

b. **Correction Costs.** The Consultant’s correction of the product deficiency shall be at no additional cost to NYSDOT, unless the system acceptance failure(s) are the results of Disputed Work within the meaning of Article 33.5 of this Agreement (in which case the remedy within such section applies). The Consultant shall, however, bear sole responsibility for the costs of correction of product deficiencies revealed by such testing, including all previously unanticipated and unscheduled time and effort required for the development of corrective measures.

13. **Warranty Provisions.** Consultant warrants that, for 18 months from the acceptance of any IT Project or any IT application under this Agreement per the successful completion of the system acceptance, any IT Project or any IT application Software and Systems created under this Agreement, including all Service Components, Developed Software, and Consultant-Owned Software furnished hereunder, shall be free from significant programming and operational errors which shall prevent it from operating in conformity with the standards set forth in this Agreement.

a. If NYSDOT notifies Consultant that any Software, System, or Service fails to conform to the requirements of this agreement during the Warranty period, Consultant shall remedy such failure at no cost to NYSDOT.

b. **Exclusive Warranty for Third-Party Software.** Consultant’s warranties do not apply to Third-Party Software or Third-Party Commercial-Off-The-Shelf Software. Third-Party Software or Third-Party Commercial-Off-The-Shelf Software manufacturer and any Third-Party warranties shall, to the extent permissible, be passed through to NYSDOT. However, Consultant shall provide a work-around solution to any Third-Party Software, to allow the system to function to the highest extent reasonably possible within a reasonable time frame.

c. **Correction of Defects.** If at any time during the Warranty Period Consultant or NYSDOT discovers one or more defects or errors in any IT Project or any IT software or systems application developed under this Agreement or any other respect in which such Software and Systems fail to conform to the provision of any warranty contained in the Agreement, Consultant shall, entirely at its own expense, correct such defect, error, or non-conformity by, among other things, supplying NYSDOT with such corrective codes and making such additions, modifications, or adjustments to the Software as may be necessary to keep all Software in operating order.

d. **Warranty Disclaimer.** Consultant disclaims any and all other promises, representations, or warranties not expressly provided for elsewhere in this Agreement, and its attachments and exhibits, to the maximum extent allowable by law, with respect to the software and systems, either express or implied, including but not limited to the implied warranties of merchantability and fitness for a specific purpose, and any warranties that the operation of any IT Project or any IT software or system application developed under this Agreement will be uninterrupted or error free.

14. **Suspension and Termination; Bankruptcy.**

14.1 **Suspension or Termination for Convenience of NYSDOT.** NYSDOT may, without cause and for its convenience, upon not less than seven (7) days’ written notice to Consultant, suspend Consultant's performance under this Agreement or terminate this Agreement.

14.1.1 Contracts between Consultant and its subconsultants shall provide for their suspension or termination, without cause and for the convenience of Consultant, upon not less than seven (7) days’ written notice by Consultant to its contractor, and for closeout compensation in such event for work in progress and materials on order prior to termination, work performed, materials delivered, but not lost profit on the balance of contract work. NYSDOT may, without cause and for its convenience, upon not less than seven (7) days’ written notice to Consultant, require Consultant to suspend or terminate any or all of its contracts pursuant to such provisions.
14.2 Suspension or Termination for Cause. NYSDOT may for cause and, unless in NYSDOT’s judgment the public interest requires earlier action, upon not less than seven (7) days’ written notice to Consultant, suspend Consultant’s performance under this Agreement or terminate this Agreement if Consultant breaches or is in default of any obligation hereunder, including those instances enumerated in the Escrow Agreement, which default is incapable of cure or which, being capable of cure, has not been cured within twenty (20) days after receipt of notice of such default from NYSDOT or within such additional cure period as NYSDOT may authorize. Consultant shall also be deemed in default if: 1) it fails to make reasonable progress as defined by NYSDOT on any IT Project or any IT application under this Agreement in accordance with this Agreement; 2) any IT Project or any IT application under this Agreement does not perform in accordance with the requirements of this Agreement, notwithstanding Consultant’s remedial or maintenance efforts; or 3) other material violation of this Agreement that significantly endangers substantial performance of any IT Project or any IT application under this Agreement.

14.2.1 In the event of the termination of this Agreement for failure of any IT Project or any IT application under this Agreement element or component, or in the performance of any IT Project or any IT application under this Agreement during the Warranty Period as stated in Article 33.13(a) of this Agreement, NYSDOT may: 1) recover from Consultant all costs, fees, and expenses incurred by NYSDOT to remedy such failure, including for elements which are rendered substantially useless as a result of such failure, up to the amount paid to Consultant for the Project element that has so failed; and 2) if such failure is integral to any IT Project or any IT application under this Agreement, all money paid for any IT Project or any IT application under this Agreement, as well as associated services.

14.2.2 In the event of the failure of any IT Project or any IT application, element or component under this Agreement, or in the performance of any IT Project or any IT application, software, systems or services provided under this Agreement during the Warranty Period as stated in Article 33.13(a) of this Agreement, NYSDOT may suspend Consultant's performance, in whole or in part, without terminating this Agreement, and contractually or otherwise remedy the failure at costs to be charged to Consultant or offset against Consultant's compensation under this Agreement. In the event of such suspension or other remedy, Consultant’s aggregate liability shall not exceed two hundred percent (200%) of the amount stated in 14.2.1 above.

14.2.3 If a termination is brought about for the convenience of the STATE and not as a result of unsatisfactory performance on the part of the Consultant, final payment shall be made based on the percentage of work satisfactorily completed by the Consultant, as determined by the STATE.

14.2.4 The New York State Department of Transportation reserves the right to terminate this contract in the event it is found that the certification filed by the Contractor in accordance with the requirements contained in State Finance Law Sections 139j & 139k was intentionally false or intentionally incomplete. Upon such finding, the New York State Department of Transportation may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the contract.

14.3 Delivery of Documentation. In the event of suspension or termination pursuant to this Article, Consultant shall secure for and deliver to NYSDOT all documentation relating to the contracts terminated thereby, including but not limited to any designs, plans or specifications, contract and subcontract documents, tapes or discs, or software.

14.4 Impact on Project Schedule. In the event such suspension or termination affects project duration, the impact will be reflected in the project schedule.

14.5 Suspension or Termination Payments. In general, suspension of performance or termination of any financial assistance under this Agreement will not invalidate the State’s obligation to reimburse Consultant for costs and expenses properly incurred by Consultant and concurred in by the State before the suspension or termination date, to the extent those obligations cannot be canceled. However, if the State determines that Consultant has willfully misused State or Federal assistance funds by the gross negligence or willful failure to make adequate progress; make reasonable use of the Project property, facilities, or equipment; or adhere to the terms of this Agreement, the State reserves the right to require Consultant to refund the entire amount of State funding received by Consultant under this Agreement.

14.6. Bankruptcy. Should a petition for bankruptcy be filed by Consultant pursuant to Title 11 USC or its successor statute:

14.6.1 Consultant shall comply with all requirements set forth in 11 USC 365 or any successor statute regarding the assumption, assignment, or rejection of this Agreement. Consultant shall either cure all defaults, compensate actual losses, give adequate assurance of future performance and fulfill all obligations pursuant to 11 USC 365 or any successor statute.
USC 365(b)(1) or other applicable law and assume the obligation; or shall reject this Agreement as provided by Bankruptcy Law. If this Agreement is rejected, possession of or rights to contract property, including subcontracts required for the performance of the Project (which is in the public interest), equipment, and deliverables, shall be immediately returned to or transferred and assigned to the State. No sale or assignment of this Agreement shall be permitted without the consent of the State or without compliance with the assumption and assignment provisions under Bankruptcy Law pursuant to 11 USC 365 or its successor statute.

14.6.2 The Debtor may not assume or assign this Agreement if it has been terminated pursuant to the terms hereof prior to the filing for a petition for relief in bankruptcy.

14.7 Reserved.

14.8 Consultant Warranties Surviving Suspension, Termination, or Bankruptcy. Following a suspension or termination of this Agreement, and/or a Chapter 11 reorganization bankruptcy of Consultant, Consultant’s obligations to have provided properly performing software and/or systems as required under this Agreement, and the warranties provided by Consultant to NYSDOT under this Agreement, shall continue in effect for the remainder of the term of this Agreement, without regard to such suspension or termination, and to the fullest extent allowed by federal bankruptcy statutes and case law. Consultant shall not avoid responsibility for failure to provide properly performing software and/or systems as required under this Agreement by asserting that the suspension or termination of this Agreement, or Consultant’s Chapter 11 bankruptcy, has voided the obligations of Consultant’s contractual warranties under this Agreement.

14.9 Limitation of Liability/Exclusion of Damages. Except for Licensee’s breach of confidentiality obligations hereunder, in no event shall either party be liable to the other for any incidental, indirect, special, consequential or punitive damages related to the software that is not expressly provided for elsewhere in this Agreement and its attachments and exhibits, including without limitation lost profits, costs of delay, any failure of delivery, business interruption, costs of lost or damaged data or documentation, or liabilities to third parties arising from the software’s use, even if the party from which such damages are sought has been advised of the possibility of such damages.
IN WITNESS WHEREOF, this Contract No. C031290 has been executed by the STATE, acting by and through the Commissioner of Transportation, and the CONSULTANT has duly executed this Agreement effective the day and year first above written.

In addition to the acceptance of this Agreement, the Department also certifies that original copies of this signature page will be attached to all other exact copies of this Agreement.

RECOMMENDED BY FOR THE PEOPLE OF THE STATE OF NEW YORK

___________________________________ By: _____________________________

CONTRACT MANAGEMENT DEPARTMENT OF TRANSPORTATION

DATE: ________________ DATE: ________________

CONSULTANT Certifications: I certify that all the information with respect to the “Vendor Responsibility Questionnaire” submitted by (CONSULTANT FIRM NAME) ________________ on the ______ day of ________________, 20___ pursuant to the requirements set forth in OSC’s ‘Guide to Financial Operations’ is complete true and accurate. I additionally certify nothing has occurred since the date of that submission that would result in requiring a change or alteration to any of the answers provided on the “Vendor Responsibility Questionnaire” submitted that date.

I certify that all information provided to the STATE with respect to the requirements contained in State Finance Law Sections 139j & 139k is complete, true and accurate.

By _____________________________ Date: _____________________________

FIRM

-----ATDM Program Services ----

APPROVALS

ATTORNEY GENERAL

THOMAS P. DI NAPOLI

STATE COMPTROLLER

By _____________________________

Date _____________________________
Acknowledgement for Contract #C031290

For contracts signed in New York State

State of New York       )
County of               ) ss.:

On the_________ day of ______________ in the year 201___, before me the undersigned, personally appeared ______________________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

________________________________________
                                 NOTARY PUBLIC

My Commission Expires: ____________________

For contracts signed **outside** New York State

State of                       )
County of                      ) ss.:

On the_________ day of ______________ in the year 201___ before me, the undersigned, personally appeared ______________________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in ____________________________ (insert the city or other political subdivision and the state or country or other place the acknowledgement was taken).

________________________________________
                                  NOTARY PUBLIC

(Signature and office of individual taking acknowledgement.)

My Commission Expires: ________________
APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State’s previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the Comptroller where the original contract was subject to the State Comptroller’s approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor’s business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State’s prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER’S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds $50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller’s approval of contracts let by the Office of General Services is required when such contracts exceed $85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS’ COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers’ Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of $50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor
understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds $5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee’s Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished
to the contracting agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor’s equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor’s obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over $25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development’s Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been
informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opra@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than $1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming,
engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a “procurement contract” as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law Section 165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: http://www ogs.ny.gov/about/regs/docs/ListofEntities.pdf

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law Section 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

Updated February 2014
During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

(1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter “FHWA”) Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.

(4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT’s Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
   (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
   (b.) cancellation, termination or suspension of the contract, in whole or in part.

(6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
APPENDIX B

REQUIREMENTS FOR FEDERALLY-AIDED TRANSPORTATION PROJECTS

There is a substantial body of requirements attached to the use of Federal highway or transportation aid. These requirements create or overlay processes, procedures, documentation requirements, authorizations, approvals and certifications that may be substantially greater or different from those that are not funded with Federal-aid and proceed under applicable State and local laws, customs and practices. Under Title 23 of the United States Code, the New York State Department of Transportation (NYSDOT) is responsible for the administration of transportation projects in New York State to which NYSDOT provides Federal highway or transportation-related aid. Through this Agreement, which provides or is associated with such funding, NYSDOT delegates various elements of project and funding administration as described elsewhere in this Agreement. In undertaking a Federally-aided project, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement with Federal-aid funding or project administration agrees to proceed in compliance with all the applicable Federal-aid requirements.

NYSDOT, in cooperation with FHWA, has assembled the body of Federal-aid requirements, procedures and practices in its “Procedures for Locally Administered Federal-Aid Projects” (available through NYSDOT’s web site at: www.dot.ny.gov/plafap). In addition, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement for Federal-aid funding or project administration that enters into Federally aided project construction contracts is required to physically incorporate into all its Federally aided construction contracts and subcontracts there under the provisions that are contained in Form FHWA-1273 (available from NYSDOT or electronically at: www.fhwa.dot.gov/programadmin/contracts/1273.htm).

In addition to the referenced requirements, the attention of Municipality/Sponsor hereunder is directed to the following requirements and information:

NON DISCRIMINATION/EEO/DBE REQUIREMENTS

The Municipality/Sponsor and its contractors agree to comply with Executive Order 11246, entitled "Equal Employment Opportunity" and United States Department of Transportation (USDOT) regulations (49 CFR Parts 21, 23, 25, 26 and 27) and the following:

1. NON DISCRIMINATION. No person shall, on the ground of race, color, creed, national origin, sex, age or handicap, be excluded from participation in, or denied the benefits of, or be subject to, discrimination under the Project funded through this Agreement.

2. EQUAL EMPLOYMENT OPPORTUNITY. In connection with the execution of this Agreement, the Municipality/Sponsor’s contractors or subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, color, sex or national origin. Such contractors shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, national origin or age. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

3. DISADVANTAGED BUSINESS ENTERPRISES. In connection with the performance of this Agreement, the Municipality/Sponsor shall cause its contractors to cooperate with the State in meeting its commitments and goals with regard to the utilization of Disadvantaged Business Enterprises (DBEs) and will use its best efforts to ensure that DBEs will have the opportunity to compete for subcontract work under this Agreement. Also, in this connection the Municipality or Municipality/Sponsor shall cause its contractors to undertake such actions as may be necessary to comply with 49 CFR Part 26.

As a sub-recipient under 49 CFR Part 26.13, the Municipality/Sponsor hereby makes the following assurance.

The Municipality/Sponsor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any United States Department of Transportation (USDOT)-assisted contract or in the administration of its Disadvantaged Business Enterprise (DBE) program or the requirements of 49 CFR Part 26. The Municipality/Sponsor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of the United States Department of Transportation-assisted contracts. The New York State Department of Transportation’s DBE program, as required by 49 CFR Part 26 and as approved by the United States Department of Transportation, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
Non-Federal entities that expend $500,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A-133, “Audits of States, Local Governments, and Non-Profit Organizations”. Non-Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non-Federal entities that expend less than $500,000 in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency 7 the New York State Department of Transportation, the New York State Comptroller’s Office and the U.S. Governmental Accountability Office (GAO).

Non-Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity’s fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation’s Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.

THE CATALOG OF FEDERAL DOMESTIC ASSISTANCE
The Catalog of Federal Domestic Assistance (CFDA8), is an on-line database of all Federally-aided programs available to State and local governments (including the District of Columbia); Federally recognized Indian tribal governments; Territories (and possessions) of the United States; domestic public, quasi-public, and private profit and nonprofit organizations and institutions; specialized groups; and individuals.

THE CFDA IDENTIFICATION NUMBER
OMB Circular A-133 requires all Federal-aid recipients to identify and account for awards and expenditures by CFDA Number. The Municipality/Sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

The most commonly used CFDA number for the Federal Aid Highway Planning and Construction program is 20.205. Additional CFDA numbers for other transportation and non-transportation related programs are:

<table>
<thead>
<tr>
<th>CFDA Number</th>
<th>Program Name</th>
</tr>
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<tbody>
<tr>
<td>20.215</td>
<td>Highway Training and Education</td>
</tr>
<tr>
<td>20.219</td>
<td>Recreational Trails Program</td>
</tr>
<tr>
<td>20.XXX</td>
<td>Highway Planning and Construction - Highways for LIFE;</td>
</tr>
<tr>
<td>20.XXX</td>
<td>Surface Transportation Research and Development;</td>
</tr>
<tr>
<td>20.500</td>
<td>Federal Transit-Capital Investment Grants</td>
</tr>
<tr>
<td>20.505</td>
<td>Federal Transit-Metropolitan Planning Grants</td>
</tr>
<tr>
<td>20.507</td>
<td>Federal Transit-Formula Grants</td>
</tr>
<tr>
<td>20.509</td>
<td>Formula Grants for Other Than Urbanized Areas</td>
</tr>
<tr>
<td>20.600</td>
<td>State and Community Highway Safety</td>
</tr>
<tr>
<td>23.003</td>
<td>Appalachian Development Highway System</td>
</tr>
<tr>
<td>23.008</td>
<td>Appalachian Local Access Roads</td>
</tr>
</tbody>
</table>

PROMPT PAYMENT MECHANISMS
In accordance with 49 CFR 26.29, and NY State Finance Law 139-f or NY General Municipal Law 106-b(2) as applicable:

(a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 7 calendar days from receipt of each payment you make to the prime contractor.

(b) You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this requirement:

1. You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

2. You may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed.

3. You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 7 calendar days after your payment to the prime contractor.

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7 The designated cognizant agency for audit shall be the federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB changes it.
8 www.cfda.gov/
(c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

(d) Your DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(e) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:

1. A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.

2. A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

3. Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

March 2013
APPENDIX C

SPECIAL EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS

Specific Equal Employment Opportunity Responsibilities

1. GENERAL (a) Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity, as required by Federal Executive Order 11246, Federal Executive Order 11375, and NYS Executive Order 45, are set forth in required Contract Provisions (Form PR-1273 or 1316, as appropriate) and those Special Provisions which are imposed pursuant to Section 140 of Title 23, U.S.C., as established by Section 22 of the Federal-Aid Highway Act of 1968. Non-discrimination and affirmative action are also required by the State Labor Law, Section 220-e, as amended, and the Regulations of the NYS Department of Transportation relative to federally-assisted programs (Title 49, Code of Federal Regulations, Part 21 and Section 21.5), including employment practices when the agreement covers a program set forth in Appendix B of the Regulations. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for projects activities under this contract.

(b) The CONSULTANT will work with the STATE and the Federal Government in carrying out equal employment opportunity obligations and in their review of their activities under this contract.

c) The CONSULTANT and all their sub-consultants and/or sub-contractors holding sub-contracts of $10,000 or more will comply with the following minimum specific requirements of equal employment opportunity: (The equal employment opportunity requirements of Executive Order 11246, as set forth in Volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual, are applicable to contractors and sub-contractors.) The CONSULTANT will include these requirements in every sub-contract with such modification of language as is necessary to make them binding on the sub-contractor.

2. EQUAL EMPLOYMENT OPPORTUNITY POLICY The CONSULTANT, their sub-consultant and/or sub-contractor or any person acting on behalf of the CONSULTANT or sub-consultant and/or sub-contractor will accept as their operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, national origin, age, disability or marital status, and to promote the full realization of equal employment opportunity through a positive continuing program. "It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, or during consideration for employment, without regard to their race, religion, sex, or color, national origin, age, disability or marital status. Such non-discriminatory action shall include, but not be limited to: employment, job assignment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

3. EQUAL EMPLOYMENT OPPORTUNITY OFFICER The CONSULTANT will designate and make known to the New York State Department of Transportation contracting officers an Equal Employment Opportunity Officer and a Minority Business Enterprise officer (hereinafter referred to as the EEO Officer and M.B.E. Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active equal employment opportunity program and who must be assigned adequate authority and responsibility to do so.

4. DISSEMINATION OF POLICY (a) All members of the CONSULTANT's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the CONSULTANT's equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity in each grade and classification of employment. To insure that the above agreement will be met, the following actions will be taken as a minimum:

(1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less than once every six months, at which time the CONSULTANT's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

(2) All new supervisory (first level of supervision and above) or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the CONSULTANT's equal employment opportunity obligations within thirty days following their reporting for duty with the CONSULTANT.

(3) All personnel who are engaged in direct recruitment for the project will be instructed in the CONSULTANT's procedures for locating and hiring minority group employees by the EEO Officer or appropriate company official. (Minority group referred to herein shall mean Black, Hispanic, Asian/Pacific Islander, American Indian/Alaskan.)
(b) In order to make the CONSULTANT's equal employment opportunity policy known to all employees, prospective employees and potential sources or employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the CONSULTANT will take the following actions:

(1) Notices and posters setting forth the CONSULTANT's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

(2) The CONSULTANT's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

(c) In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a sub-contract, including procurements of materials or equipment, each potential sub-contractor or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this agreement and the Regulations relative to non-discrimination.

5. RECRUITMENT

(a) When advertising for employees, the CONSULTANT will include in all advertisements for employees the notation: "An Equal Opportunity Employer.” All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived. These advertisements shall state that all qualified applicants will be afforded equal employment opportunity without regard to race, religion, sex, color, national origin, age, disability or marital status.

(b) The CONSULTANT will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the CONSULTANT's EEO Officer will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the CONSULTANT for employment consideration. In the event the CONSULTANT has a valid bargaining agreement providing for exclusive hiring hall referrals, the CONSULTANT is expected to observe the provisions of that agreement to the extent that the system permits the CONSULTANT's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the CONSULTANT to do the same, such implementation violates Executive Order 11246.

(c) The CONSULTANT will encourage present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

6. PERSONNEL ACTIONS

Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age, disability or marital status. The following procedures shall be followed:

(a) The CONSULTANT will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

(b) The CONSULTANT will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory practices.

(c) The CONSULTANT will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the CONSULTANT will promptly take corrective action. If the review indicated that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

(d) The CONSULTANT will promptly investigate all complaints of alleged discrimination made in connection with obligations under this agreement, will attempt to resolve such complaints, and will take appropriate corrective action within 15 days. All subsequent corrective actions or decisions will also be documented and forwarded to the NYS Department of Transportation Compliance Officer within 7 days after such action has taken place. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the CONSULTANT will inform every complainant of the results and all of their avenues of appeal should the complaint be denied.

7. TRAINING AND PROMOTION

(a) The CONSULTANT will assist in locating, qualifying and increasing the skills of minority group and women employees, and applicants for employment.

(b) Consistent with the CONSULTANT's work force requirements and as permissible under the Federal and State regulations, the CONSULTANT shall make full use of training programs; i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance. In the event the Training Special Provision is provided under this contract, this subparagraph is superseded thereby.
c) The CONSULTANT will advise employees and applicants for employment of available training programs and entrance requirements for each.

(d) The CONSULTANT will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

8. UNIONS If the CONSULTANT relies in whole or in part upon unions as a source of employees, the CONSULTANT will use their best effort to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and, to effect referrals by such unions of minority and female employees. The CONSULTANT will send to each labor union or representative of workers with which he has or is bound by a collective bargaining or other agreement or understanding, a notice to be provided by the State Division of Human Rights, advising such labor union or representative of the CONSULTANT's compliance and with the non-discrimination clauses. Actions by the CONSULTANT, either directly or through a CONSULTANT's association acting as agent, will include the procedures set forth below:

(a) The CONSULTANT will use their best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

(b) The CONSULTANT will use their best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age, disability or marital status.

(c) The CONSULTANT is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union, and such labor union refuses to furnish such information to the CONSULTANT. The CONSULTANT shall so certify to the STATE and shall set forth what efforts have been made to obtain such information. Further, if the CONSULTANT was directed to do so by the contracting agency as part of the bid or negotiations of this contract, the CONSULTANT shall request such labor union or representative to furnish him with a written statement that such labor union or representative accepts the non-discrimination clauses and will affirmatively cooperate, within the limits of its legal and contractual authority, in the implementation of the policy and provisions of these non-discrimination clauses or that it consents and agrees that recruitment, employment and the terms and conditions of employment under this contract shall be in accordance with the purposes and provisions of these non-discrimination clauses. If such labor union or representative fails or refuses to comply with such a request that it furnish such a statement, the CONSULTANT shall promptly notify the State Division of Human Rights and set forth what efforts have been made to obtain such information.

(d) In the event the union is unable to provide the CONSULTANT with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the CONSULTANT will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age, disability or marital status, making full efforts to obtain qualified and/or qualifiable minority group persons and women. The U.S. Department of Labor has held that it shall be no excuse that the union with which the CONSULTANT has a collective bargaining agreement providing for exclusive referral failed to refer minority employees. In the event the union referral practice prevents the CONSULTANT from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such CONSULTANT shall immediately notify the New York State Department of Transportation.

9. AFFIRMATIVE ACTION IN SUBCONTRACTING (a) The CONSULTANT will not discriminate on the grounds of race, religion, sex, color, national origin, age, disability or marital status in the selection of subcontractors, including procurements and leases of equipment.

(b) If the CONSULTANT determines to use a subcontractor as part of this agreement, affirmative action shall be taken to increase the participation of minority business firms in that work. As part of that affirmative action, the CONSULTANT will identify and contact minority business firms and solicit proposals for the work to be subcontracted. The STATE will provide a list of names of minority business firms to the CONSULTANT. Another source that should be contacted for a list of minority business firms is the Governor's Office of Minority & Women's Business Development (GOMWBD).

(c) The CONSULTANT will document the affirmative action steps taken to comply with paragraph 9b. Such documentation will be provided at the time or submittal of a formal proposal to the State's Contracts Bureau.

(d) By execution of this agreement, the CONSULTANT certifies that the affirmative action steps in 9a, 9b & 9c above were taken when soliciting proposals for the work in this agreement indicated to be subcontracted and that these steps will be taken should any work be subcontracted in the future.

(e) The CONSULTANT will insure binding subcontractor and vendor compliance with their EEO obligations. The CONSULTANT will take such actions in enforcing such provisions of such subcontract or purchase order as the contracting agency may direct, including sanctions or remedies for non-compliance. If the CONSULTANT becomes involved in or is
threatened with litigation with a subcontractor or a vendor as a result of such direction by the contracting agency, the CONSULTANT shall promptly so notify the Attorney General, requesting him to intervene and protect the interest of the State of New York.

10. RECORDS AND REPORTS  (a) The CONSULTANT will keep such records as are necessary to determine compliance with the CONSULTANT’s equal employment opportunity obligations. The records kept by the CONSULTANT will be designed to indicate:

(1) The number of minority and non-minority group members and women employed in each work classification on the project, where required by the NYS D.O.T Compliance Officer.

(2) The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to CONSULTANTS who rely in whole or in part on unions as a source of their work force).

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees.

(4) The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.

(5) Compliance with all other requirements in these provisions such as meetings, instructions, employment efforts, etc.

(b) The CONSULTANT will comply with Sections 291-299 of the Executive Law and Civil Rights Law and will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts other sources of information, and its facilities as may be determined by State or Federal officials to be pertinent to ascertain compliance with such Regulations, orders and instructions. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State and the Federal Highway Administration.

(c) Failure to comply with these Special EEO Provisions may be considered unsatisfactory performance and may subject the agreement to termination under the termination article of this agreement. Non-compliance may result in the CONSULTANT's being declared ineligible for future agreements made by or on behalf of the STATE or a public authority or agency of the STATE, until he satisfies the State Commissioner of Human Rights that he has established and is carrying out a program in conformity with the provisions of these non-discrimination clauses. Such finding shall be made by the State Commissioner of Human Rights after conciliation efforts by the State Division of Human Rights have failed to achieve compliance with these non-discrimination clauses and after a verified complaint has been filed with the State Division of Human Rights.

The CONSULTANT and an opportunity has been afforded them to be heard publicly before the State Commissioner of Human Rights or official designee. Such sanctions may be imposed and remedies invoked independently of or in addition to sanctions and remedies otherwise provided for by law. These may include, but are not limited to:

(1) withholding of payments to the CONSULTANT under the agreement until the CONSULTANT complies, and/or

(2) cancellation, termination or suspensions of the agreement in whole or in part.

11. TRAINING SPECIAL PROVISIONS  This Training Special Provision supersedes paragraph 7.b above and is in implementation of 23 CFR Subpart A, Section 230.111 & Executive Order 11246.

As part of the CONSULTANT’s equal employment opportunity affirmative action program training shall be provided as follows:

The CONSULTANT shall provide on-the-job training aimed at developing full competence in the job classification involved.

The number of months of training to be provided under these special provisions is previously stated in this Agreement.

In the event that the CONSULTANT subcontracts a portion of the contract work, it shall be determined how many, if any, of the trainees are to be trained by the subcontractor, provided however, that the CONSULTANT shall retain the primary responsibility for meeting the training requirements imposed by this special provision. The CONSULTANT shall also insure that this training special provision is made applicable to such subcontract.

The number of trainees shall be distributed among the work classifications on the basis of the CONSULTANT’s needs. Along with their proposal, the CONSULTANT shall submit to the New York State Department of Transportation for approval the proposed number of trainees to be trained in each selected classification, their estimated salaries and a training schedule. The salaries to be paid trainees shall not be less that 75 percent of the average hourly rate approved in the agreement for the classification to be trained. During the period from the beginning of the project to its completion, the trainee shall receive reasonable salary increases commensurate to the abilities and effort exerted by the trainee. The training schedule required should indicate the start of work and appropriate incremental salary steps in accord with the above.

Training and upgrading the proficiency of minorities and women is a primary objective of this Training Special Provision. Accordingly, the CONSULTANT shall make every effort to enroll minority trainees and women (e.g., by conducting systematic and direct recruitment through public and private sources likely to yield minority and women trainees) to the extent that such persons are available within a reasonable area of recruitment. The CONSULTANT will be responsible for demonstrating the steps that have been taken in pursuance thereof, prior to a determination as to whether the CONSULTANT is in compliance with
this Training Special Provision. This training commitment is not intended, and shall not be used, to discriminate against any applicant for training, whether a member of a minority group or not.

No employee shall be employed as a trainee in any classification in which they have successfully completed a training program or in a classification in which they have been employed. The CONSULTANT should satisfy this requirement by including appropriate questions in the employee application or by other suitable means. Regardless of the method used, the CONSULTANT's records should document the findings in each case.

The minimum length and type of training for each classification will be as established in the training schedule developed by the CONSULTANT and approved by the State and Federal Highway Administration. The State and the Federal Highway Administration shall approve a program if it reasonably calculated to meet the equal employment opportunity obligations of the CONSULTANT and to assist in qualifying the average trainee toward proficiency in the classification concerned by the end of the training period. Approval of a training program shall be obtained from the State prior to commencing work on the classification covered by the program. Training is permissible in lower level management positions. Some offsite training is permissible as long as the training is an integral part of an approved training program and does not comprise a significant part of the overall training.

The CONSULTANT will be reimbursed for the cost of any and all training under the payment terms of this agreement. This can include offsite training cost as discussed above. All offsite training must be defined in the training schedule. All costs claimed or calculated for training must be directly related to the work defined in the scope of this agreement and/or added by supplemental agreement.

The CONSULTANT must demonstrate their best efforts and evidence good faith in hiring trainees for positions in the classification in which they have completed training.

The CONSULTANT shall furnish the trainee a copy of the program they will follow in the training. The CONSULTANT shall provide each trainee with a certification showing the type and length of training satisfactorily completed.

The CONSULTANT will provide for the maintenance of records and furnish periodic reports documenting their performance under this Training Special Provision.

Updated December 2012
SCHEDULE A

Scope of Services
C031290 ATDMS Program Services for NYSDOT

<PlaceHolder>
SCHEDULE B

Consultant Rates and Project Budget (CY 2015)
C031290 ATDM Program Services for NYSDOT

<PLACEHOLDER>
ATTACHMENT 2

CONSULTANT INFORMATION AND CERTIFICATIONS

(Please submit this with your Cost Proposal)

CONTRACT NUMBER:  **C031290**
PROJECT TITLE:  **ATDM PROGRAM**

I.  CONSULTANT INFORMATION

FIRM NAME:  ________________________________________________________________
ADDRESS:  ________________________________________________________________
CITY:  __________________________  STATE:  ________________
ZIP CODE:  ____________  -  ____________

TELEPHONE #: (_____) _____ - _________  FAX#: (_____) _____ - _________

E-MAIL ADDRESS:  __________________________________________________________

CONTACT PERSON:  _________________________________________________________
Consultant's Federal Identification Number (FIN):  ____________________________
Consultant's Consultant Identification Number (CIN):  ___________________________
Consultant’s SFS Vendor Identification Number:  ____________________________

• Please indicate below the name, title, address, and telephone/fax numbers of the person who prepared this proposal, as well as any other individual(s) with authority to negotiate and contractually bind the offeror and also who may be contacted during the period of proposal evaluation:

Preparer’s Name/Title:  _______________________________________________________  
Address:  _________________________________________________________________
Telephone #:  ________________  FAX #:  ________________  E-Mail  ________________

Other Authorized Individual(s):
Name/Title  ________________________________________________________________
Address:  _________________________________________________________________
Telephone #:  ________________  FAX #:  ________________  E-Mail  ________________

Add additional pages if necessary.
II. OFFEROR CERTIFICATIONS

By signing below, I, ___________________________________________, authorized individual (NAME)
Of ___________________________________________, make the following certifications (FIRM)
regarding the subject proposal:

- 365-Day Offer: This proposal is a firm offer for a 365-day (or more) period from the date of submission.
- The firm has read and will follow the procedure outlined in Attachment 5 if it proposes the services of a former NYSDOT employee(s).
- Vendor Responsibility: In accordance with New York State law, if selected for contract award, the firm will complete and submit the required Vendor Responsibility questionnaire through the Office of the State Comptroller VendRep system, which is accessible via: http://www.osc.state.ny.us/vendrep/index.htm. Vendors must certify the accuracy of the information they provide in the questionnaire and must file their VRQ within 10 days of notification of designation. NYSDOT cannot sign a contract if a firm’s vendor responsibility certification is more than 12 months old.
- ST-220: If selected for contract award greater than $100,000, the firm will complete and submit the required Forms ST-220-TD and ST-220-CA during negotiations with NYSDOT. The ST-220 forms with instructions are downloadable from the following websites:

Signature: __________________________________________

III. ACCEPTANCE OF AGREEMENT*

By signing below, I, ___________________________________________, authorized individual (NAME)
of ___________________________________________ hereby ACCEPT all terms and conditions (FIRM)
contained in the Draft Contract (including Appendix A), which is included as Attachment 1 to this Request for Proposals.

Signature: __________________________________________ (NAME OF ACCEPTOR)
Attachment 3

Procurement Lobbying Law Forms

REQUIRED FORMS

The consultant shall complete and sign the forms below. These forms are part of and due with the consultant’s proposal.

- Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law Section 139-j (3) and Section 139-j (6) (b)
- Offerer Disclosure of Prior Non-Responsibility Determinations

NYSDOT GUIDELINES AND PROCEDURES

Under the requirements of the State Procurement Act all communications regarding advertised projects are to be channeled through NYSDOT Contract Management Bureau’s Designated Contacts (listed below). Until a designation is made, communication with any other NYSDOT employee concerning this project that is determined to be an attempt to influence the procurement may result in disqualification.


SUMMARY OF THE POLICY AND PROHIBITIONS REGARDING PERMISSIBLE CONTACTS

Contacts Prior to Designation

Any communications involving an attempt to influence the procurement are only permitted with the following Designated Contact Persons:

- The Contract Management Bureau designation analyst
- The Contract Management Bureau designation analyst supervisor
- The Contract Management Bureau Assistant Directors
- The Contract Management Bureau Director

These are some communications exempted from this restriction:

- Participation in a pre-proposal conference or webinar
- Protests, complaints of improper conduct or misrepresentation

If any other NYSDOT employee is contacted and they believe a reasonable person would infer that the communication was intended to influence the procurement, the contact must be reported by the NYSDOT employee. If the Department determines an impermissible contact was made, that offerer cannot be awarded the contract. A second violation would lead to a four year bar on the award of public contracts to the offerer.

Contacts After Designation

NYSDOT identifies its primary negotiation contacts. The designated contacts include:

- The Contract Management Bureau negotiation analyst
- The Contract Management Bureau negotiation analyst supervisor
- The Contract Management Bureau Assistant Directors
- The Contract Management Bureau Director
- The Consultant Management Bureau consultant job manager
- The Consultant Management Bureau consultant job manager’s immediate supervisor

The law does not limit who may be contacted during the negotiation process. However, if any NYSDOT employee is contacted and they believe a reasonable person would infer that the communication was intended to influence the procurement, the contact must be reported by the NYSDOT employee.

**Information Required from Offerers that Contact NYSDOT Staff, Prior to Contract Approval by the Office of the State Comptroller:**

The individuals contacting NYSDOT should refer and shall be prepared to provide the following information, either by e-mail or fax as directed by NYSDOT:

- Person’s name, firm person works for, address of employer, telephone number, occupation, firm they are representing, and whether owner, employee, retained by or designated by the firm to appear before or contact the NYSDOT.

**APPLICABILITY TO AN EXECUTED CONTRACT**

Restrictions similar to those described above apply to approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved by the comptroller, as applicable), renewal or extension of a procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the offerer. The staff noted above as well as the project manager and consultant manager are considered designated contact persons. The Department may identify other contact persons for each of these processes.

**RULES, REGULATIONS AND MORE INFORMATION ON THIS LAW**

For rules, regulations and more information on this law, please visit:

- The Joint Commission on Public Ethics at: [http://www.jcope.ny.gov/](http://www.jcope.ny.gov/)

For more information, go to NYSDOT’s World Wide Web Site at [http://www.dot.ny.gov](http://www.dot.ny.gov) or contact:

Al Hasenkopf, Contract Management Bureau
New York State Department of Transportation
50 Wolf Road, 6th Floor
Albany, New York 12232
Attention: ATDMP RFP C031290
E-Mail: alfred.hasenkopf@dot.ny.gov
Fax: 518-457-8475
Offerer affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible Contracts as required by State Finance Laws §139-j (3) and §139-j (6) (b).

<table>
<thead>
<tr>
<th>Contract No.</th>
<th>C031290</th>
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<tr>
<td>By:</td>
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<td>Date:</td>
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<td>Name:</td>
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<td>Title:</td>
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<td>Contractor Name:</td>
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<td>Contractor Address:</td>
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________________________________________
________________________________________
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Attachment 3

Offerer Disclosure of Prior Non-Responsibility Determinations

Name of Individual or Entity Seeking to Enter into the Procurement Contract: __________________________

Address: _____________________________________________

Name and Title of Person Submitting this Form: ____________________________________________________

Contract Procurement Number: C031290

Date: ________________________________________________

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle): No Yes

   If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle): No Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle): No Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

   Governmental Entity: ______________________________________
   Date of Finding of Non-responsibility: ___________________________
   Basis of Finding of Non-responsibility: __________________________

   (Add additional pages as necessary.)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle): No Yes

6. If yes, please provide details below.

   Governmental Entity: ______________________________________
   Date of Finding of Non-responsibility: ___________________________
   Basis of Finding of Non-responsibility: __________________________

   (Add additional pages as necessary.)

Offerer certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By: ___________________________________________ Date: __________________

Name: __________________________________________
Title: __________________________________________
### FORM A

**State Consultant Services – Contractor’s Planned Employment**

From Contract Start Date Through The End Of The Contract Term

<table>
<thead>
<tr>
<th>ONET Employment Category Code</th>
<th>ONET Employment Category Name</th>
<th>Number of Employees</th>
<th>Number of hours to be worked</th>
<th>Amount Payable Under the Contract</th>
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Total this page: 0  0  $ 0.00

Grand Total

Name of person who prepared this report:
Preparer's Signature: ___________________________  Phone #: ___________________________
Title: ___________________________  Date Prepared: ___________________________
State Consultant Services - Contractor’s Annual Employment Report

Report Period: April 1, to March 31,

Contracting State Agency Name: NYSDOT
Agency Code: 3900283

Contract Number: C031290
Contract Term: to

Contractor Name:
Contractor Address:
Description of Services Being Provided: ATDM Program Services for NYSDOT

Scope of Contract (Choose one that best fits):

- [ ] Analysis
- [ ] Data Processing
- [ ] Architect Services
- [ ] Mental Health Services
- [ ] Paralegal
- [ ] Evaluation
- [ ] Computer Programming
- [ ] Surveying
- [ ] Accounting
- [ ] Legal
- [ ] Research
- [ ] Other IT Consulting
- [ ] Environmental Services
- [ ] Auditing
- [ ] Engineering
- [ ] Health Services
- [ ] Other Consulting

<table>
<thead>
<tr>
<th>ONET Employment Category Code</th>
<th>Number of Employees</th>
<th>Number of Hours Worked</th>
<th>Amount Payable Under the Contract</th>
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</thead>
<tbody>
<tr>
<td>ONET Employment Category Name</td>
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<td>Grand Total</td>
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</table>

Name of person who prepared this report:
Preparer's Signature: ____________________________
Title: ____________________________ Phone #: ____________________________
Date Prepared: ____________________________

(Use additional pages if necessary.)
ATTACHMENT 5

USE OF FORMER NYSDOT EMPLOYEES

It is the Consultant’s responsibility to ensure they propose staff who are eligible to work on the proposed project. It is an individual’s responsibility to comply with the NYS Public Officer’s Law.

The following procedure applies if either of the following criteria is met.

- It is two years or less between the date that the individual is proposed and the individual’s date of separation from the State.
- The individual proposed has worked on the project while employed by NYSDOT regardless of how long ago they left NYSDOT.

Procedure

- Before the consultant proposes an individual, the individual must obtain an opinion from the New York State Joint Commission on Public Ethics (http://www.jcope.ny.gov/) that approves their participation in the project as they are proposed.

- A copy of this opinion must be on file in the consultant’s office and available for review by NYSDOT if requested.

- Failure to obtain the New York State Joint Commission on Public Ethics (http://www.jcope.ny.gov/) approval for an individual’s participation in a project may jeopardize the firm’s designation for that project.
ATTACHMENT 6
COMPANY REFERENCES

INSTRUCTIONS

In response to NYSDOT’s ATDM Program RFP, proposers are required to submit relevant project and contact information for reachable references for up to two past relevant company projects. It is preferred that each cited project experience be of similar scale and scope to this RFP. All cited company references must be reachable (i.e., willing to provide a reference on behalf of the proposer to NYSDOT upon request). The references should be willing to provide information via an e-mailed reference response form and possibly follow that up with a conference call to speak further on the proposer’s behalf.

Fill out the requested information using the provided form. Use one form for each company reference provided, for up to two past project references. Be sure to cover the proposed Prime Consultant and each proposed Subconsultant (circle accordingly) when filling Attachment 6 out. Fill out all boxes which are applicable per each reference response – fill in any not applicable box with ‘N/A’.

Include Attachment 6 in your Technical and Management Proposal submission.
## ATTACHMENT 6

### COMPANY REFERENCES

<table>
<thead>
<tr>
<th>Reference Company Name:</th>
<th>Prime or Sub</th>
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<tr>
<td>Reference Main Line of Business:</td>
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### Reference Contact Information

<table>
<thead>
<tr>
<th>Primary Contact Person’s Name:</th>
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<tr>
<td>Title:</td>
<td></td>
</tr>
<tr>
<td>Affiliation/Company Employed By:</td>
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<tr>
<td>Phone:</td>
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<td>E-mail:</td>
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### Project Information

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<td>Project Start Date:</td>
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<td>Project End Date:</td>
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<tr>
<td>Project Budget:</td>
<td></td>
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<tr>
<td>Number of Staff Involved:</td>
<td></td>
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<tr>
<td>Types of Staff Involved:</td>
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</table>

**Degree to which offered key personnel were primarily responsible for project delivery:**

**Description of all services provided and how they were/are comparable to the size and scope of the services specified in this RFP:**

**An explanation of the size and complexity of the project, including how it compares in size to this project:**

**A list of all subconsultants and the duties they performed (if applicable):**

**Project results and benefits delivered to the client**

----- Please add pages as appropriate -----
ATTACHMENT 7

STAFFING PLAN (INSTRUCTIONS)

Present a complete staffing plan that provides the following:

1. Identify all proposed Consultant Key Personnel.

2. Key Personnel Experience and Qualifications:
   
   The Consultant must provide the necessary staff to conduct all required transportation demand management services as defined in the RFP, to perform all of the required tasks, and to produce all required deliverables. NYSDOT requires that the proposer provide a Project Staffing Plan that includes, at a minimum, all proposed Consultant Key Personnel and any other proposed generic roles/titles which the Consultant considers instrumental to ATDM Program delivery over the life of resulting Contract #C031290. The Staffing Plan will also identify the timeframe each role will be involved, the level at which they will participate over that timeframe, and the timeframe the role will be located at NYSDOT versus located remotely. The RFP defines the following minimum Key Consultant Personnel:
   
   **Project Account Manager**: Main (1) and Regional (3): Responsible for execution and coordination of all aspects of Consultant’s project plan and schedule; serves as primary point of contact for NYSDOT; has authority to act on behalf of Consultant; and is responsible for initially handling all contractual matters.
   
   For requirements where a number of years of experience is specified, that experience can be accumulated over a wider range of years. For requirements where a certification is required, or desirable, the certification should be verifiable in the appropriate certification database.
   
   Your cost proposal shall contain fully-loaded, not-to-exceed rates for each of the above titles.

3. Present an estimate of labor (proposed hours) by key personnel as well as for any supporting personnel to present a detailed staffing plan for each Consultant Performance Requirement. NYSDOT is seeking a staffing schedule to identify consultant personnel commitments (ie, full time versus part time) to this project. DO NOT include any cost information. Use Exhibit 5 from Attachment 8. Includes an estimate of total effort hours contributed by each of the key personnel to each Consultant Performance Requirement and an estimate of total effort hours for each Consultant Performance Requirement.

4. Describes the strategy that will be used to acquire human resources with the appropriate skills to initially staff the project as well as maintain consultant-provided resources over the life of the project/contract.

5. Provides a description of how the offeror proposes to utilize the proposed key staff members and additional staffing to meet the obligations of this engagement as described in this RFP.

6. If sub-consultants are to be used, the staffing plan shall describe the specific need for the expertise and describe the arrangements, including maintenance of meeting the contract's 18% DBE goal over the life of the contract.

7. Describes the offeror’s plan for phasing project personnel into the effort and the level of interaction contemplated with NYSDOT and other involved stakeholders.
8. Indicates the degree to which it is anticipated that staff will be located on site at the NYSDOT offices. Any work to be conducted off site must be so indicated. The staffing plan should include a staffing schedule for each Consultant Performance Requirement of the project using this Attachment.

9. Additional non-designated subconsultants can only be brought under contract with the expressed written consent of NYSDOT (subject to a determination of acceptable skills, experiences and knowledge plus reasonable and acceptable fully loaded rates.
ATTACHMENT 7

KEY PERSONNEL RESUMES AND REFERENCES

INSTRUCTIONS:

Offerors are required to complete one resume form for each proposed key personnel, including subcontracted staff, who are proposed for this project under resulting Contract #C031290. Complete and submit resumes for all other proposed staff (non-key personnel). Resume summary information includes name, proposed role on this project, years of relevant experience, description of relevant experience and expertise, and two successfully reachable references. Complete one resume per proposed person. For the number of years of experience, while inclusion of partial years is allowed, please indicate start/end months (complete months only).

Include Attachment 7 in your Technical and Management Proposal submission.
ATTACHMENT 7
PROJECT STAFF RESUME AND REFERENCES

Offeror’s legal company name:
Company Mailing Address:
Company Phone:
Company Fax:

Section 1: Personnel Information

<table>
<thead>
<tr>
<th>Proposed Project Role</th>
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<tr>
<th>Name:</th>
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<th>First</th>
<th>Middle</th>
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<th>City</th>
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<th>E-Mail Address</th>
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5.12 Section 2: Past/Current Employer

<table>
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<th>Employer Name</th>
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<th>Employer Address</th>
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<tr>
<th>Beginning date of service (when the key staff person provided services to the client/firm)</th>
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<tr>
<th>Ending date of service (when the key staff person provided services to the client/firm)</th>
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<table>
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<tr>
<th>Total time claimed</th>
<th>_____ Years</th>
<th>_____ Months</th>
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</thead>
</table>

| Employment Status | _____ Full Time | _____ Part Time | _____ hrs/week |
|-------------------|-----------------|-----------------|

<table>
<thead>
<tr>
<th>Primary contact person at the firm</th>
</tr>
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</table>

- name and title
- e-mail address
- telephone number

5.13 Section 3: Work Description

<table>
<thead>
<tr>
<th>Describe the general engineering duties during the employment with this firm for the time period identified above.</th>
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<tr>
<th>Describe briefly the personal level of responsibility or authority for the work described for this employer. Explain here any changes in title resulting from promotions or other job changes during this period of employment.</th>
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<tr>
<th>Describe in detail the specific work that was performed on projects or job</th>
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<tr>
<td>assignments that are representative of the work relevant to the identified role</td>
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<tr>
<td>For the work performed, indicate the time that was spent on these projects or assignments. The total time claimed cannot exceed actual calendar time.</td>
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<tr>
<td>Professional associations and certifications</td>
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<tr>
<td>Education</td>
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ATTACHMENT 8

COST PROPOSAL

Instructions

The Cost Proposal shall contain the following elements:

1. A Rate Schedule by proposed Key Personnel and Generic Job Title (Contract Year One only)
2. Detailed & Summary Estimated Year One Budget

Rate Schedule (Exhibit 1): Present a fully-loaded billing rate for each proposed Key Personnel (one rate for each person) and present a billing rate for all generic job titles requiring a billing rate for employees not named in your proposal. Rates shall be for Year 1 of the contract only. If additional titles are used but are not assigned, they must be listed. For generic titles, compensation by level of experience (entry level, junior, senior, etc) is allowed. Offerors must present one Rate Schedule per firm in its team (prime consultant plus any sub-consultants that are being proposed), making multiple copies of the exhibit, as needed. Fully loaded hourly rates for all sub-consultants must also be included.

For each rate, present the following:

1. Salary
2. Overhead additive
3. Fee additive

The salary should cover the cost of direct pay to each proposed consultant employee.

The overhead additive is calculated by the following formula:

\[ \text{OH Additive} = \text{Salary} \times \text{Overhead Percentage} \]

The fee additive is calculated via the following formula (not to exceed 10%):

\[ \text{Fee Additive} = \text{Salary} \times \text{Fee Percentage} \]

Please use the Proposed Rates Chart to guide your submission. Offerors must present a Year One Rate Schedule per firm in its team (prime consultant plus any sub-consultants that are being proposed), making multiple copies of the exhibit, as needed. Hourly rates for all sub-consultants must be included.

For proposal evaluation purposes, assume a total of 10 total hours for any proposed IT titles.

Year One Budget (Exhibit 2): Present a total cost of providing all of the RFP’s requested ATDM Program services to NYSDOT for the contract’s first year. Provide a detailed breakdown of all estimated labor and all estimated out of pocket expenses (direct non-salary costs), including a travel-related expenses, required document reproduction costs, and any costs associated with
NYSDOT TDM Program 3rd party service providers. Cost of cell phones cannot be a direct expense item- should be included in your overhead.

**Staffing Table by Task With Rates/Costs (Exhibit 3).** Present a schedule which shall list all descriptive job titles for the staff to be assigned to this project and to which tasks they are assigned to, depicting the proposed number of hours, their corresponding fully-loaded rates, and the resulting labor costs to accomplish each task. The schedule shall be prepared to distinguish anticipated assignment by project section/task. A fictitious example with rate schedule is included in the RFP for illustration purposes.

**Direct Non-Salary Costs (Exhibit 4).** Present a direct non-salary cost schedule shall list by task number the items of direct non-salary costs (out-of-pocket expenses) expected to be incurred in the performance of the project. It’s ideal to relate these costs by their corresponding tasks, as applicable. A fictitious example of a direct non-salary cost schedule is included in the RFP for illustration purposes. Travel, meals and lodging reimbursements shall be limited to the prevailing maximum rates established by the NY State Comptroller. The latest state and nationwide maximum reimbursement rates are available at the following Web site: [http://www.gsa.gov/](http://www.gsa.gov/). Subconsultant costs (if any) shall be shown in the schedule. On separate sheets, explain each item with all factors leading to the derivations of the costs attributable to subconsultants.

**Staffing Table by Task Without Rates/Costs for Year One (Exhibit 5).** Present a schedule which shall list all descriptive job titles for the staff to be assigned to this project and to which tasks they are assigned to, depicting the proposed number of hours to deliver all of the services required by this RFP to deliver each task. **No rate or cost information is to be presented in this schedule.** The schedule shall be prepared to distinguish anticipated assignment by project section/task. A sample without rate schedule is included in the RFP for illustration purposes. **THIS SCHEDULE MUST BE INCLUDED IN YOUR TECHNICAL PROPOSAL SUBMISSION – DO NOT INCLUDE THIS SCHEDULE IN YOUR COST PROPOSAL SUBMISSION.**
(Fictitious Example of Exhibit 1)
Proposed Staffing/Fully Loaded Rate Schedule (by Title)

ATDM Program Services for NYSDOT
Contract #C031290

Consultant Name:_________________________

<table>
<thead>
<tr>
<th>EXAMPLE TITLE</th>
<th>NAME</th>
<th>(a) YEAR ONE DIRECT LABOR</th>
<th>(b) OVER HEAD (___%)</th>
<th>(c) FEE (___%) Not to exceed 10%</th>
<th>(a)+(b)+(c) YEAR ONE BILLING RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Manager</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transportation Analyst</td>
<td></td>
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<td></td>
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<tr>
<td>Technical Analyst</td>
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<tr>
<td>Administrative Analyst</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Administrative Assistant</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Public Involvement Specialist</td>
<td></td>
<td></td>
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<td>Economist</td>
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<tr>
<td>Demographer</td>
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<tr>
<td>Statistician</td>
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<tr>
<td>Specialty Planner</td>
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<td></td>
</tr>
<tr>
<td>IT Specialist</td>
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<td></td>
</tr>
<tr>
<td>Transportation Modeler</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>GIS Specialist</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ATTACHMENT 8

ATDM Program Services for NYSDOT
Contract #C031290

FIRM NAME: __________________

SUMMARY ESTIMATED TOTAL PROJECT BUDGET: YEAR ONE

(January 1, 2015 to December 31, 2015)

(Fictitious Example of Exhibit 2)

<table>
<thead>
<tr>
<th>Prime Consultant:</th>
<th></th>
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<tbody>
<tr>
<td>Item 1. Direct Technical Labor</td>
<td>$52,467</td>
</tr>
<tr>
<td>Item 2. Direct Non-Salary</td>
<td>$3,500</td>
</tr>
<tr>
<td>Cost (estimated)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subconsultant:</th>
<th>(as more as needed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item 3. Direct Technical Labor</td>
<td>$51,932</td>
</tr>
<tr>
<td>Item 4. Direct Non-Salary</td>
<td>$0</td>
</tr>
</tbody>
</table>

| Total Estimated Cost                 | $199,974             |

============
### Staffing Table by Task With Rates/Costs Schedule

#### Consultant Name: __________________________

<table>
<thead>
<tr>
<th>TASK ASSIGNMENT JOB TITLE</th>
<th>TASK 1.0</th>
<th>TASK 2.0</th>
<th>TASK 3.0</th>
<th>TASK 4.0</th>
<th>TASK 5.0</th>
<th>TASK 6.0</th>
<th>TASK 7.0</th>
<th>TOTAL HOURS</th>
<th>HOURLY RATE</th>
<th>DIRECT TECHNICAL LABOR</th>
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</thead>
<tbody>
<tr>
<td>Project Director</td>
<td>6</td>
<td>3</td>
<td>4</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>18</td>
<td>$55.00</td>
<td>$990</td>
</tr>
<tr>
<td>Project Mgr</td>
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<td>30</td>
<td>40</td>
<td>20</td>
<td>15</td>
<td>20</td>
<td>20</td>
<td>298</td>
<td>$45.00</td>
<td>$13,410</td>
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<td>98</td>
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<td>40</td>
<td>40</td>
<td>157</td>
<td>$34.00</td>
<td>$5,338</td>
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<tr>
<td>Transportation Analyst II</td>
<td>62</td>
<td>30</td>
<td>40</td>
<td>22</td>
<td>100</td>
<td>40</td>
<td>30</td>
<td>324</td>
<td>$34.00</td>
<td>$11,016</td>
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<tr>
<td>Technical Analyst I</td>
<td>20</td>
<td>30</td>
<td>40</td>
<td>20</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>185</td>
<td>$25.00</td>
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<td>Administrative Analyst I</td>
<td>81</td>
<td>33</td>
<td>45</td>
<td>75</td>
<td>120</td>
<td>160</td>
<td>50</td>
<td>564</td>
<td>$25.00</td>
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<td>0</td>
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<td>0</td>
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<tr>
<td>PI Specialist</td>
<td>5</td>
<td>5</td>
<td>20</td>
<td>60</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>150</td>
<td>$20.00</td>
<td>$3,000</td>
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<tr>
<td>Economist</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>$0.00</td>
<td>$0</td>
</tr>
<tr>
<td>IT Specialist</td>
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<td>0</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>$0.00</td>
<td>$0</td>
</tr>
<tr>
<td>Transportation Modeler</td>
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<tr>
<td>TOTAL</td>
<td>284</td>
<td>161</td>
<td>229</td>
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<td>306</td>
<td>185</td>
<td>1696</td>
<td>$52,467</td>
<td></td>
</tr>
</tbody>
</table>

1: Suggested Titles: Not representative of titles to be proposed. When filling out this table, you must present one row for each proposed person (present an hour estimate for each person). Present an hour estimate for each generic job title (requiring a billing rate for employees not named in your proposal.)
## Attachment 8

### Direct Non-Salary Costs Schedule

**ATDM Program Services for NYSDOT**  
**Contract #C031290**  
*(Fictitious Example of Exhibit 4)*

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TOTAL TRAVEL, LODGING, SUBSISTENCE</strong></td>
<td>$501</td>
</tr>
<tr>
<td>2. Printing and Copying</td>
<td></td>
</tr>
<tr>
<td>a. Copies</td>
<td></td>
</tr>
<tr>
<td>8 1/2&quot; x11&quot; 500@0.11 per page</td>
<td>$55.00</td>
</tr>
<tr>
<td>b. Advertising in local media</td>
<td>$1,800.00</td>
</tr>
<tr>
<td><strong>TOTAL PRINTING &amp; COPYING</strong></td>
<td>1,855</td>
</tr>
<tr>
<td>3. Telephone and Mail</td>
<td></td>
</tr>
<tr>
<td>a. Express mail/Overnight delivery</td>
<td>$170.00</td>
</tr>
<tr>
<td><strong>TOTAL TELEPHONE &amp; MAIL</strong></td>
<td>170</td>
</tr>
<tr>
<td>4. Food</td>
<td></td>
</tr>
<tr>
<td>Meals</td>
<td>$50.00</td>
</tr>
<tr>
<td><strong>TOTAL MEALS</strong></td>
<td>50</td>
</tr>
<tr>
<td>5 3rd Party Services</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL DNSC:</strong></td>
<td>$###,###</td>
</tr>
</tbody>
</table>

---
Attachment 8

(Fictitious Example of Exhibit 5)

ATDM Program Services for NYSDOT
Contract #C031290

Consultant Name: ___________________________

<table>
<thead>
<tr>
<th>TASK ASSIGNMENT JOB TITLE</th>
<th>TASK 1.0</th>
<th>TASK 2.0</th>
<th>TASK 3.0</th>
<th>TASK 4.0</th>
<th>TASK 5.0</th>
<th>TASK 6.0</th>
<th>TASK 7.00</th>
<th>TOTAL HOURS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultant Project Mgr</td>
<td>6</td>
<td>3</td>
<td>4</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>18</td>
</tr>
<tr>
<td>Consultant Task Manager</td>
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<td>30</td>
<td>40</td>
<td>20</td>
<td>15</td>
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<td>20</td>
<td>298</td>
</tr>
<tr>
<td>Transportation Planner I</td>
<td>98</td>
<td>30</td>
<td>40</td>
<td>25</td>
<td>25</td>
<td>40</td>
<td>40</td>
<td>157</td>
</tr>
<tr>
<td>Transportation Analyst II</td>
<td>62</td>
<td>30</td>
<td>40</td>
<td>22</td>
<td>100</td>
<td>40</td>
<td>30</td>
<td>324</td>
</tr>
<tr>
<td>Technical Analyst I</td>
<td>20</td>
<td>30</td>
<td>40</td>
<td>20</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>185</td>
</tr>
<tr>
<td>Administrative Analyst I</td>
<td>81</td>
<td>33</td>
<td>45</td>
<td>75</td>
<td>120</td>
<td>160</td>
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<td>564</td>
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<td>0</td>
</tr>
<tr>
<td>PI Specialist</td>
<td>5</td>
<td>5</td>
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<td>60</td>
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<td>20</td>
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<td>150</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
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</tr>
<tr>
<td>Demographer</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Statistician</td>
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<td>0</td>
<td>0</td>
<td>0</td>
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<td>0</td>
<td>0</td>
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</tr>
<tr>
<td>Specialty Planner</td>
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<tr>
<td>GIS Specialist</td>
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<td>0</td>
<td>0</td>
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<td>0</td>
<td>0</td>
</tr>
<tr>
<td>TOTAL</td>
<td>284</td>
<td>161</td>
<td>229</td>
<td>224</td>
<td>307</td>
<td>306</td>
<td>185</td>
<td>1696</td>
</tr>
</tbody>
</table>

1: Suggested Titles: Not representative of titles to be proposed.
When filling out this table, you must present one row for each proposed person (present an hour estimate for each person).
Present an hour estimate for each generic job title (requiring a billing rate for employees not named in your proposal).

**THIS SCHEDULE MUST BE INCLUDED IN YOUR TECHNICAL PROPOSAL SUBMISSION.**

**DO NOT INCLUDE THIS SCHEDULE IN YOUR COST**
ATTACHMENT 9

DBE PARTICIPATION INFORMATION

Please complete the following table for the prime firm and all proposed subconsultants (consultant team composition). All DBEs must be certified and posted on New York State’s NYSUCP DBE Directory (http://www.nysucp.net/). Please keep in mind that only NYSUCP-certified DBEs are eligible to count toward attainment of this federally funded contract with an 18% DBE participation goal.

Please identify each full firm’s legal name and indicate each firm’s percentage of the total cost/total budget for contract #C031290.

If the combined percentage of total cost/budget for all proposed, certified DBEs is less than the 18% DBE Participation Goal set for this contract, then the proposing prime firm is required to fill out and submit the DBE Subconsultant Participation Solicitation Log (Attachment 10), and the DBE Goal Attainment Explanation Letter. Further, Prime Consultants certified as a DBE are not relieved of meeting the DBE contract goal solely via their participation, as this is a subconsultant program opportunity. DBE primes need to either meet the DBE subconsultant participation goal, or submit the DBE Subconsultant Participation Solicitation Log (Attachment 10) and the DBE Goal Attainment Explanation Letter.

<table>
<thead>
<tr>
<th>Firm Legal Name</th>
<th>NYSUCP Certified DBE</th>
<th>% of Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>DBE</td>
<td>None</td>
</tr>
<tr>
<td>A. Prime Consultant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Sub-Consultants</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
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</tr>
<tr>
<td>Total</td>
<td></td>
<td>100%</td>
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</table>
## ATTACHMENT 10

### DBE SUBCONSULTANT PARTICIPATION SOLICITATION LOG

(Good Faith Effort Documentation)

<table>
<thead>
<tr>
<th>CONTRACT NO. C031290</th>
<th>DBE PARTICIPATION GOAL</th>
<th>PAGE NUMBER ___ OF ___</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>18%</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>SOLICITED COMPANY NAME AND CONTACT PERSON</th>
<th>TELEPHONE (WITH AREA CODE)</th>
<th>FEDERAL EMPLOYER ID #</th>
<th>WORK TYPES BEING SOLICITED</th>
<th>TYPES AND DATES OF CONTACTS</th>
<th>CONTACT RESULT(S)</th>
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</thead>
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<td></td>
</tr>
</tbody>
</table>

Please use additional pages as necessary
INSTRUCTIONS FOR COMPLETING ATTACHMENT 10, DBE SUBCONSULTANT PARTICIPATION SOLICITATION LOG (GOOD FAITH EFFORT DOCUMENTATION)

To be deemed responsive to this solicitation, Consultants whose proposed DBE participation does not meet the established Disadvantaged Business Enterprises (DBE) participation goal must document and report their efforts to solicit participation by certified DBE in this Non-Architecture/Non-Engineering contract. The DBE Subconsultant Participation Solicitation Log is used for this purpose.

PLEASE NOTE: Only participation by NYSUCP certified DBE subconsultants count toward the Contract’s DBE goal attainment. Participation by DBE prime consultants does NOT count toward the Contract’s DBE goal - participation by DBE prime consultants only counts towards NYSDOT corporate DBE goal. Also, please note that once a proposal has been submitted, a firm’s cost proposal CAN NOT BE changed, so responding firms only have one opportunity to get their DBE submission correct. Substitutes can only be allowed if the technical qualifications are similar to what was originally proposed with no change in cost. FHWA's administrative reconsideration process can be followed provided that the validity of the consultant selection process is preserved.

Guidance concerning Good Faith Efforts in meeting DBE participation goals in Federally funded contracts is located at the end of this section.

The log is to be filled out and submitted with the proposing firm’s Cost and Contract Proposal. In order for a proposal to be determined as responsive when the DBE participation goal is not attained at all, or is only partially attained, the proposer must complete all sections of this form and submit a DBE Subconsultant Participation Solicitation Log, along with a DBE Goal Attainment Explanation Letter, documenting the firm’s Good Faith Effort.

*** DBE CERTIFICATION IS A FEDERAL PROGRAM CERTIFICATION. ***

IT IS SEPARATE AND DISTINCT FROM THE NEW YORK STATE MBE & WBE PROGRAM. PLEASE DO NOT CONFUSE THE TWO. FIRMS WITH QUESTIONS REGARDING THESE PROGRAMS ARE ENCOURAGED TO SUBMIT WRITTEN QUESTIONS

PAGE NO.: Enter 1 of 1; or 1 of 2 and 2 of 2; etc. Use additional forms as needed.

PRIME NAME/ADDRESS/ZIP CODE: Enter name of the Prime Consultant, its address and zip code.

CONTACT PERSON: Enter the name of the person your firm has designated as the authorized contact person for this solicitation.

CONTACT PERSON TELEPHONE AND E-MAIL: Enter area code, phone number and e-mail address for the person your firm has designated as the authorized contact person for this solicitation.

DEBE CONSULTANTS SOLICITED:

SOLICITED COMPANY NAME AND CONTACT PERSON: Enter name of solicited firm and name of the individual associated with the firm to whom the solicitation inquiry was sent.

TELEPHONE (With Area Code): Enter telephone number (including area code) of the solicited firm.
FEDERAL EMPLOYER ID #: Enter the Federal Employer Identification Number of the solicited firm.

WORK TYPE(S) BEING SOLICITED: Enter the work type(s) or Commercial Useful Function for which this firm has been solicited in connection with the Scope of Services for this contract. (NOTE: Work type codes are provided for every certified firm listed in the Biznet DBE Registry: http://www.nysucp.net/).

TYPES AND DATES OF CONTACT: Enter dates on which your firm contacted the solicited firm, either by mail (date solicitation sent), telephone (including date and time of call) or other person-to-person contact. Identify the type of contact by prefacing each date with ‘M’ if a mail contact; “T” if a telephone call; and “D” if a direct meeting with the firm.

CONTACT RESULT(S): Enter the code(s) which indicates the result(s) of your solicitation.

*** USE ADDITIONAL PAGES AS NEEDED ***

A description of the codes to use is as follows:

**CODE DESCRIPTION:**

1. This firm is unavailable to participate in the contract for the reason(s) stated on the DBE Solicitation Response. (Attach explanation to the Log.)

2. This firm is no longer in business. (NOTE: If this action is checked, attach your explanation as to why the solicitation was sent to the firm and how evidence that it was no longer in business was obtained. Attach the returned envelope showing that it was undeliverable, for instance.)

3. The soliciting Prime Consultant was unable to reach this firm after having a telephone conversation to follow-up on the DBE participation solicitation inquiry. (NOTE: Indicate In the Types and Dates of Contact column the dates and times at which follow-up was attempted.)

4. This firm did not respond to repeated telephone messages. (NOTE: Indicate in the Types and Dates of Contact column the dates and times at which messages were left.)
GUIDANCE CONCERNING GOOD FAITH EFFORTS
IN MEETING DBE PARTICIPATION GOALS IN FEDERALLY-FUNDED CONTRACTS

The following is a list of types of actions that demonstrate good-faith efforts in obtaining DBE participation for federally funded contracts. This list is not exclusive or exhaustive. The bidder must show that it took all necessary and reasonable steps to achieve a DBE goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

Soliciting through all reasonable and available means (e.g., attendance at pre-bid meetings, utilizing the NYSUCP DBE Directory: http://www.nysucp.net/) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the bidder might otherwise prefer to perform these work items with its own forces.

Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

Negotiating in good faith with interested DBEs – it is the bidder’s responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

A bidder using good business judgment should consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and should take a firm’s price and capabilities, as well as contract goals, into consideration. However, the fact that there may be some additional costs involved in finding a DBE is not in itself sufficient reason for failure to meet the contract DBE goal. Also, the ability or desire to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good-faith efforts.

Do not reject DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor’s standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union versus non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor’s efforts to meet the project goal.

Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
SECTION 139-D, Statement of Non-Collusion in bids to the State:

BY SUBMISSION OF THIS BID, BIDDER AND EACH PERSON SIGNING ON BEHALF OF BIDDER CERTIFIES, AND IN THE CASE OF JOINT BID, EACH PARTY THERETO CERTIFIES AS TO ITS OWN ORGANIZATION, UNDER PENALTY OF PERJURY, THAT TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF:

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

A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE [1], [2], [3] ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE BIDDER(S) CANNOT MAKE THE FOREGOING CERTIFICATION, THE BIDDER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

Subscribed to under penalty of perjury under the laws of the State of New York, this ______ day of ____________, 20____ as the act and deed of said corporation of partnership.
ATTACHMENT 11

NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY SECTION 139-D OF THE STATE FINANCE LAW

IF BIDDER(S) (ARE) A PARTNERSHIP, COMPLETE THE FOLLOWING:

<table>
<thead>
<tr>
<th>NAMES OF PARTNERS OR PRINCIPALS</th>
<th>LEGAL RESIDENCE</th>
</tr>
</thead>
<tbody>
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</tr>
</tbody>
</table>

IF BIDDER(S) (ARE) A CORPORATION, COMPLETE THE FOLLOWING:

<table>
<thead>
<tr>
<th>NAME</th>
<th>LEGAL RESIDENCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>President:</td>
<td></td>
</tr>
<tr>
<td>Secretary:</td>
<td></td>
</tr>
<tr>
<td>Treasurer:</td>
<td></td>
</tr>
<tr>
<td>President:</td>
<td></td>
</tr>
<tr>
<td>Secretary:</td>
<td></td>
</tr>
<tr>
<td>Treasurer:</td>
<td></td>
</tr>
</tbody>
</table>
**ATTACHMENT 11**

**NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY SECTION 139-D OF THE STATE FINANCE LAW**

**Identifying Data**

Potential Contractor: ____________________________________________________

Address: __________________________________________________________________

                                            Street

________________________________________________________________________

City, Town, etc.

Telephone:__________________________ Title__________________________

**If applicable, Responsible Corporate Officer**

Name:______________________________ Title__________________________

Signature: _______________________________________________________________

Joint or combined bids by companies or firms must be certified on behalf of each participant.

<table>
<thead>
<tr>
<th>Legal name of person, firm or corporation</th>
<th>Legal name of person, firm or corporation</th>
</tr>
</thead>
<tbody>
<tr>
<td>By ________________________________</td>
<td>By ________________________________</td>
</tr>
<tr>
<td>Name ________________________________</td>
<td>Name ________________________________</td>
</tr>
<tr>
<td>Title ________________________________</td>
<td>Title ________________________________</td>
</tr>
<tr>
<td>Address: ______________________________</td>
<td>Address: ______________________________</td>
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<tr>
<td>Street ______________________________</td>
<td>Street ______________________________</td>
</tr>
<tr>
<td>City ____________________ State</td>
<td>City ____________________ State</td>
</tr>
</tbody>
</table>
ATTACHMENT 12

IT SERVICES WORK ORDER PROCESS

Any significant IT services performed under C031290 shall be on a work-order (or NYSDOT-approved Project Change Request, depending upon its nature) basis up to the maximum budgeted amounts for such category of services as set forth in Schedule B. For RFP proposal evaluation purposes, labor costs for contingency services will be estimated based on an assumed block of 10 labor hours using consultant-proposed rates by title established in the Attachment 8 Cost Proposal. The work order/Project Change Request process is defined below.

Work Order Input

NYSDOT will inform the Consultant of its need for a contingency service via a Work Order Input Form. The Work Order Input Form will capture (at minimum) the following requested contingency service work items:

- Name and brief description of its operation, function or service
- Reason, objective or purpose and value to NYSDOT’s ATMS Program
- Fundamental construct or design
- Key individuals needed to formally design, scope, test and implement

Work Order Quote

The consultant, following discussions with NYSDOT, will use the provided Work Order Input form to develop a Work Order Quote. Multiple iterations of the quote may be necessary. The Work Order Quote will include (at minimum):

- The Service’s purpose and objective, and when appropriate identify: data input, processing, and output of the information (web, mobile app, voice, report).
- The Service’s high-level blue print architecture, illustrating at a minimum:
  - Data source, transmission mode, processing, storage and output.
  - Security features, back-up and business continuity.
  - Software languages, application needs and related software requirements.
- Specific deliverable(s) to be realized.
- The scope of the service.
- Time to realize the service. (duration)
- Labor hours to realize the service (cost)
- Impact the Service may have on ongoing operations and maintenance.
- An outline of the service’s design and implementation including:
  - Design
  - Construction
Work Order Approval

When an acceptable Work Order Quote has been submitted, NYSDOT will submit a formal, written Work Order Approval. Work Order Approval contains all the information on the Work Order Quote and contains authorization to perform the specified contingency services. Once signed by NYSDOT, the Work Order Approval is formal authorization to execute the tasking identified in the Work Order Quote.

Work Order Payment

NYSDOT will provide payment for approved Work Order Approvals on the following schedule (subject to change):

- Completion/approval of the Service’s design – 25%
- Completion/approval of all Acceptance Test Plans – 25%
- Acceptance by NYSDOT and Implementation – 50%
ATTACHMENT 13

SUMMARY OF REGION 8, 10 & 11 3RD PARTY SERVICES

---------------------------------------------
Region 8 Third Party Services

Each third party service contract with MetroPool ends on June 30. Some have month to month extension clauses, at mutual agreement (a NYSDOT preference).

A. Park and ride lots...leasing and managing
   Kingston circle.....$1,500 per month...becomes monthly starting July
   New Paltz ..........$1,800 per month
   E Fishkill .......... $1,800 per month...becomes monthly this July
   Bedford ...........  $  800 per month, terminates June 30

B. Taxi shuttle contract.....Bridge construction project.....Stony Point.....$8,000 per month.....monthly renewal

C. Ridesharing
   --NuRide (computerized carpooling) partially performance based...averages $8,000 per month.
   --Vanpooling ....with Rideshare, Inc. More than 500 individuals in Region 8 use MetroPool funded vanpools. Costs approximately $20,000 per month...terminates June 30...no extension deal in place. Likely Region 8 would want new vanpool deal with new prime. Possibility that some bridge deal would be needed.

Region 10 Third Party Services

A rough estimate of the monthly cash needed on-hand to first instance vendors, grantees, etc., would be about $10,000. MetroPool typically subs out about 16% of the total value of their contracts.

MetroPool's third party service contracts include:
   LIRIC grants
   E-Z Street Vanpooling
   Bicycle locker operations
   Guaranteed Ride Program
Limited marketing
Delivery/supply of transit schedules, and other TDM information.
Other
The approximate upset value of these is $120,000 a year.

**Region 11 Third Party Services**

The third party service contracts with CommuterLink are as follows (dollar figures are annual dollar amounts):

- **RidePro**
  - $47000.00 annually, hosting of RidePro software, database and online applications equal partnership between CommuterLink and Long Island Transportation Management. Various contract dates for both TDM organizations run anywhere from March through July every year. Contract by product (dates vary due to the different products original implementation date):

- **Kneadmedia**
  - $350.00 annually, CommuterLink.com website hosting annually, plus design work as needed

- **Acescape**
  - $9700.00 annually for NYCommute.org website hosting and VOIP phone service including 866-NYCOMMUTE toll-free phone number and switchboard connecting to MetroPool, LITM, and New Jersey TDM providers. Contract follows calendar year.

- **Redy Ref**
  - Varies, $5700.00 in 2008. This amount will increase in 2009 as new tracking and maintenance features come on line, and hardware has to be replaced. Quoted additional services for 2009 is another $15000.00, which will be in contract Second Quarter 2009.

- **Realware**
  - $660.00 annually, OzoneNY.org website hosting. Contract follows calendar year.

- **Springbok Services**
  - Varies from $8000.00 to $10000.00, annually for certain commuter incentive rewards, starting March 2009.

- **Tamrac Consulting**
  - $5000.00 retainer, PR and marketing services, start date 11/2008.

In addition, the following are unique services provided by CommuterLink:

- Elementary and Middle School Air Quality Awareness science/lab module and website
- Door-to-Door Transit Itineraries, including maps with highlighted routes and schedules
- NYC Commute Enhancement Grant
- Transit Subsidy Matching Grant
- Kiosk Program
- Bike Buddy matching service in partnership with Transportation Alternatives (seasonal, coming soon)
- Regional NYCOMMUTE web portal and toll-free phone number connecting to downstate NY TDM and NJ TDM providers
- Regional Commuter Choice Awards in conjunction with NYMTC
- Alternative Commute Rewards Program (coming soon)
- Co-Branded commuter application page on the CommuterLink website (co-branded with Employer logo an any introduction text they would like)
- Employer customizable employee surveys
C031290 RFP On-Line Attachments

NOTE: To access and download the online files: https://www.dot.ny.gov/business and click on ‘Consultant Service Opportunities’, then click on the ‘Opportunities’ tab then click on the date for Contract #C031290. Or click on: https://www.dot.ny.gov/portal/page/portal/doing-business/opportunities/consult-ads#1925. The online files will appear in a zip file – open the zip file to access the individual on line attachments.

Attachment 14
Clean Air New York (CANY) Program

Attachment 15
511NY Rideshare Ridematching System Performance Requirements

Attachment 16
List of Active Portals

Attachment 17
RMS Software Platform

Attachment 18
TDM Statewide Framework