Q1: Article 12, Section A(4) – Please provide clarification on what NYSDOT means by “any public benefit corporation.”
Ans: Not applicable for this project.

Q2: Article 12, Section A(6) – Please confirm that waiver of subrogation does not apply to professional liability insurance.
Ans: Confirmed.

Q3: Article 12, Section A(8) – A definition of what constitutes a “self-insurance program”
Ans: A self-insurance program is a method in which a calculated amount of money is set aside to compensate for the potential future loss. It is a plan of risk management that utilizes some form of loss and risk retention instead of the types and levels of commercial third-party insurance that is specified for the NYSDOT contract. “Self-insurance” means that the contracting party does not have the insurance that is specified but rather has chosen to retain all or some portion of the risk. Examples of self-insurance include high-deductible plans, and plans for self-insured retention and management of claims. One or multiple types of insurance may be subject to a self-insurance plan. The reason that NYSDOT cares about self-insurance plans is that NYSDOT requires that risks associated with contractor work must be borne by the contractor. NYSDOT makes every effort to assure that contractors have the financial ability to pay claims that might reasonably be expected to arise from contract work. Under no circumstances may NYSDOT contract with any party whose default on the legal responsibility to pay property/casualty or professional liability claims could reasonably be expected to expose the State to liability for such claims.

The ability of contractors to manage risks related to their work varies from one contractor to another. Rather than dictate that would apply to all prospective contractors, NYSDOT requires contractors with self-insurance plans to provide a plan description. The contractor’s description of their self-insurance plan will then be evaluated to assure that the contractor is financially responsible to the standards required by NYSDOT. As a general rule, high-
deductible plans underwritten by a commercial insurer authorized to do business in New York will be deemed acceptable. Self-insured retention programs may be acceptable provided that the plans are administered by a reputable third-party administrator that reserves claims and administers a fully-funded trust or reserve account to pay incurred losses. Demonstration of contractor cash reserves, owner equity and cash flow may mitigate concerns about a risk management plan. Self-administered plans will generally be unacceptable without substantial cash reserves. Concerns about financial responsibility may be addressed by financial security in the form of bonds or letters of credit.

Q4: Article 12, Section B(2) – Is a pollution liability policy is required under this project?
Ans: No.

Q5: Article 12, Section B(4) – Can total limits be satisfied by any combination of primary or excess insurance?
Ans: No.

Q6: Regarding insurance, can you clarify the requirement for the umbrella policy – is it a $5M umbrella that is required ($5M per occurrence and aggregate) or will some combination of insurance policies that add to a total of $5M meet the requirement (i.e. $2M General, $2M professional, $1M umbrella)? If it is a $5M umbrella, such a requirement is significantly higher than what we are typically required to carry for a planning study. It would be cost-prohibitive for us as a small DBE firm to purchase the additional insurance above that which we currently have to get to $5M.
Ans: Per the RFP, Article 12, Section B, Commercial General Insurance should be $1,000,000 minimum per Occurrence and $2,000,000 per Aggregate. Umbrella/excess Insurance should be $5,000,000 minimum Occurrence/Aggregate.

The contract is between NYSDOT and the Prime only. The Prime must meet the NYSDOT requirements above. The Prime is also responsible for making sure the subs have insurance to cover the work that they will be doing.
*MANDATORY*

ACKNOWLEDGEMENT OF RECEIPT
INSURANCE QUESTIONS & ANSWERS
MODIFICATION NO.3
JUNE 27, 2017

NEW YORK STATE DEPARTMENT OF TRANSPORTATION
REQUEST FOR PROPOSALS

WATERTOWN JEFFERSON TRANSPORTATION COUNTY
AREA COUNCIL TRANSIT STUDY FOR NYSDOT
Contract #C037622

An authorized representative of your firm or organization must acknowledge receipt and acceptance of this Modification No. 3 by signing and returning one copy of this Modification to the undersigned via inclusion in the Contract Section of your firm’s Part II Cost and Contract Proposal to NYSDOT.

ACKNOWLEDGED AND ACCEPTED: NYS DEPARTMENT OF TRANSPORTATION:

BY: ______________________________
NAME: ___________________________
TITLE: ___________________________
FIRM: ____________________________

BY: original signed by: Shalina Mallory, for
WILLIAM A. HOWE
Director, NYSDOT Contract Management Bureau