NEW YORK STATE DEPARTMENT OF TRANSPORTATION
REQUEST FOR PROPOSALS
APPRAISAL SERVICES FOR NYSDOT
Contract #C037878

Initial Information for Submittal

A. Please note the following dates and deadlines:

October 22, 2019: Pre-proposal webinar

November 4, 2019: Deadline for questions about the RFP at 12:00 PM (Eastern Time)

December 4, 2019: Deadline for the submission of proposals at 12:00 PM (Eastern Time)

B. To assist firms in preparing proposals in response to this solicitation, a pre-proposal webinar will be held on October 22, 2019 at 9:30 A.M. A general review of the solicitation will be explained and specific questions regarding the solicitation may be answered. Interested firms are encouraged to remotely attend.

If you plan to attend, please provide the names of attendees to Micheleen Gregware, NYSDOT Contract Management, at (518) 485-8620 by noon on October 18, 2019. An opportunity will be afforded for questions and answers during the conference. However, to assist us in preparing for the meeting, we wish to receive any questions you may have, in writing, by the close of business on October 16, 2019.

C. Complete proposals are to be submitted to the Designated Contact stipulated in Section 1.4.
RFP RESPONSE FORM

RFP RESPONSE FORM: C037878 - APPRAISAL SERVICES FOR NYSDOT

Please review this RFP, complete the following information, and e-mail 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 Section 5.2.2(d)) 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):

____________________________________________________________________________

____________________________________________________________________________

____________________________________________________________________________

Date: ________________

Typed Name and Title: _________________________________________________________

Telephone: _________________________________ Fax: _____________________________

E-Mail Address: ______________________________________________________________

Please e-mail to: Micheleen.Gregware@dot.ny.gov
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<th>Part I - Technical and Management Submittal</th>
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<tr>
<td>☐ One (1) originally signed copy and eight (8) printed, bound and tabbed (3-ring binder) hard copies of Part I plus one (1) copy of Part I on CD/Thumb drive in Adobe PDF compatible format</td>
</tr>
<tr>
<td>☐ Securely sealed and clearly labeled with the consultant’s name, address, and telephone number and titled “Appraisal Services for NYSDOT RFP Part I — Technical and Management Proposal (C037878)”</td>
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<td>☐ Signed Cover Letter on official business letterhead</td>
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<td>☐ Table of Contents identifying each major section and page numbers</td>
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<td>☐ Executive Summary of proposed approach</td>
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<td>☐ Narrative Description</td>
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<td>☐ Approach, Scope of Services and Schedule</td>
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<td>☐ Organization and Staffing</td>
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<td>☐ Experience</td>
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<tr>
<td>☐ Complete and submit Attachment #15: Key Personnel Resume and References</td>
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<td>☐ Submit Responses to Hypothetical Appraisal Problems 1-4</td>
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<th>Part II - Cost &amp; Administrative Submittal</th>
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<tr>
<td>☐ One (1) originally signed and two (2) printed, bound and tabbed (3-ring binder) hard copies plus one (1) complete electronic copy of Part II on CD /Thumb drive in Adobe PDF compatible format, plus Attachment #17 – Cost Proposal Workbook in MS Excel 2016 compatible format.</td>
</tr>
<tr>
<td>☐ Securely sealed and clearly labeled and titled “Appraisal Services for NYSDOT RFP, Part II — Cost and Administrative Proposal (C037878)”</td>
</tr>
<tr>
<td>☐ Required Cost information (complete and submit Attachment 17 - Cost Proposal Workbook)</td>
</tr>
<tr>
<td>☐ Complete and submit Attachment 2: Consultant Information and Certifications (sign both Sections II and III)</td>
</tr>
<tr>
<td>☐ Complete and submit the Attachment 3: Form AOR Acknowledgement of Receipt</td>
</tr>
<tr>
<td>☐ Complete and submit Attachment 4: Procurement Lobbying Law Forms</td>
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<tr>
<td>☐ Complete and Submit Attachment 6: Non-Collusive Bidding Certification</td>
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<tr>
<td>☐ Complete and submit Attachment 7: Vendor Assurance of No Conflict of Interest or Detrimental Effect</td>
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REQUEST FOR PROPOSALS

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1 INTRODUCTION

1.1 Purpose
The New York State Department of Transportation (NYSDOT) is seeking proposals from
responsible and responsive Appraisal Consulting Firms (hereinafter referred to as “Consultant”).
NYSDOT shall select four (4) primary and four (4) secondary consultants to enter into multi-
year contracts for on-demand appraisal services. provide appraisal services on an as-needed,
Task Order basis. These services will include a range of appraisal activities designed to provide
sufficient information for the NYSDOT Office of Right of Way to determine just compensation
or fair market value for (a) appropriated property associated with NYSDOT capital projects, (b)
permits fees for NYSDOT property in use by the original owner or a third party, or (c) for
disposal as surplus to transportation needs.

1.2 Background

1.2.1 Mission of New York State Department of Transportation
It is the mission of NYSDOT to ensure that our customers — those who live, work and 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:

1. Coordinating and developing 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; and

2. 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.

The New York State transportation network includes (among other attributes) a state and local
highway system that annually handles over 130 billion vehicle miles, encompassing over
113,000 highway miles, 17,400 highway bridges, and numerous other assets such as large
culverts, retaining walls, tunnels, and sign structures.

Appraisal services support the Department’s delivery of road and bridge projects and other
capital projects. They also support the Department’s management of the property acquired
which is not yet being used for a transportation purpose, as well as the disposal of property no
longer needed for a transportation purpose.

1.3 Minimum RFP Responsiveness
Any Firm that does not provide all the following by the RFP deadline will be determined to be
non-responsive and will be immediately removed from further consideration:

1. Part I of the Proposal – Technical and Management submission
2. Part II of the Proposal – Cost and Administrative submission
3. Completion of all applicable attachments:
   Attachment 2: Consultant Information and Certification Form
   Attachment 3: Form AOR Acknowledgement of Receipt
   Attachment 4: Procurement Lobbying Law Forms
   Attachment 6: Non-Collusive Bidding Certification
   Attachment 7: Vendor Assurance of No Conflict of Interest or Detrimental Effect
   Attachment 15: Key Personnel Resume and References
   Attachment 17: COST SUBMISSION - Lump Sum
   Attachment 24: Responses to Hypothetical Appraisal Problems 1-4

1.4 Designated Contact
Potential responders are advised that under New York State Finance Law Section 139-j,
communication on procurements can be made only to designated contact persons. The
Department’s Designated Contact for this procurement is:

Micheleen Gregware
New York State Department of Transportation
Contract Management Bureau
50 Wolf Road, 6th Floor
Albany, NY 12232, USA
E-mail: Micheleen.Gregware@dot.ny.gov

The above-named person, as the Department’s Designated Contact for this procurement, shall be
the Department’s only point of contact and source of information for this procurement.

1.5 RFP Modifications
If necessary, NYSDOT will issue Modifications to change conditions or requirements of this
RFP. Proposers are advised to visit the NYSDOT web site
(https://www.dot.ny.gov/portal/page/portal/doing-business/opportunities/consult-opportunities)
regularly to check for Modifications. The final Modification will be posted on NYSDOT’s web site
not later than seven (7) calendar days prior to the Proposal due date. If an additional
Modification is required within seven (7) days of the Proposal due date, the Proposal due date
shall be revised such that there will be seven (7) days from the final Modification to the Proposal
due date.
2 CIVIL RIGHTS REQUIREMENTS

2.1 Disadvantaged Business Enterprise Participation – Not Applicable

2.2 Minority and Women-owned Business Enterprise Participation – Not Applicable

2.3 Service-Disabled Veteran-Owned Business Program (SDVOB) – Not Applicable

2.4 Diversity Practices – Not Applicable

2.5 Title VI Assurance

The New York State Department of Transportation (NYSDOT), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes, as amended, issued pursuant to such Act, hereby notifies all who respond to a written NYSDOT solicitation, request for proposal or invitation for bid that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, disability/handicap and income status in consideration for an award.

2.6 Equal Employment Opportunity – Pay Equity

In accordance with New York State Executive Order 162, issued on January 9, 2017, the Operator shall provide workforce utilization reports in accordance with RFP Section 8.1 Draft Contract.
3 PROJECT AND CONTRACT OBJECTIVES

3.1 Project Background

The Department has an extensive property acquisition and property management program. Each of eleven regions includes a right of way (real estate) office, headed by a chief Real Estate Officer. A regional appraisal manager is responsible for the appraisal program within the region and will be the direct contact for the Consultant within that region. Regional appraisal staff report directly to the regional appraisal manager. The staff is augmented by appraisal consultants for appraisals on acquisitions for its capital program, for establishing property values for use and occupancy permits on property not being used for highways, and to value properties for surplus sale. The Department anticipates services will be needed in most, if not all, NYSDOT Regions (reference Attachment 16 - NYSDOT Regional Map).

This map depicts capital projects that are both planned and currently underway at the time of this RFP:

![Map of Construction Projects](image)

The Department is authorized to acquire land and land rights under the NYS Highway Law. Such acquisitions are, in most instances, made in accordance with the NYS Eminent Domain Procedure Law and, on federally-aided projects, the federal Uniform Relocation Assistance and
Real Property Acquisition Policies Act of 1970. These laws, as well as the federal and state constitutions, require the payment of just compensation when property is appropriated through the eminent domain process. Just compensation, defined as fair market value through New York State judicial decisions is the value which an owner would receive if the property being acquired were transferred on the open market allowing all interested parties to inspect the parcel, consider its future utility, and negotiate its selling price.

The Department’s appraisal process is intended to establish fair market value by researching the market, investigating the property to be conveyed and applying current appraisal methods to establish fair market value.

The appraisal of real estate usually includes land, structures and land improvements, but may also include fixtures or other attachments that traditionally are conveyed as part of real estate transactions. NYSDOT acquisitions may also involve acquiring fee title or permanent easement interest in the property to be used for the proposed improvement. NYSDOT acquires temporary easements to accommodate construction staging, as well as labor and equipment access to the construction site. Many of NYSDOT’s acquisitions are partial, and the appraiser is required to understand how to (1) evaluate the indirect damages to the remaining parcel; (2) determine the appropriate diminution in fee value for a permanent easement; and (3) apply a capitalization rate for temporary easements. The appraiser is required to understand how to evaluate rates of return for property rental and apply that to determine a value for the property under the temporary easement.

3.2 Project Objectives
3.2.1 To award four (4) primary and four (4) secondary zone contracts to selected Appraisal Consultants to provide General Certified Appraisers. The Consultants shall provide appraisal services on an as-needed task order basis in a timely fashion for the term of the contract within their respective zones, working in a cooperative manner with NYSDOT’s staff. The specific scope and description of the work to be performed by selected Appraisal firms will be defined and authorized in the assignment. Consultants shall ensure compliance with applicable requirements of the Eminent Domain Procedure Law, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and USPAP. See Attachment 18 “General Guidelines for Preparing Appraisals” for more information concerning preparing appraisals for NYSDOT.

At the time of a Task Order request, NYSDOT will provide detailed instructions, scope of services and schedule information about what real estate and ownership interests should be appraised for each property. Note that it is critical, especially on the appraisals for appropriation of properties needed for transportation projects, that appraisals be delivered on or before the due date set forth in the Task Order. Failure to do so will constitute a breach of the assignment; repeated failure to meet or beat the deadlines shall constitute grounds to cancel the contract.

3.2.2 NYSDOT is under no obligation to place any task orders with Consultant and will only be liable for services rendered by said Consultant in an acceptable manner in accordance with the terms and conditions of the Agreement and specific project-related requirements of the Task Order.

3.3 Contract Objectives
3.3.1 Multiple Contract Awards
NYSDOT anticipates the award of one (1) Primary Agreement and one (1) Secondary Agreement for each of four (4) regional zones (reference Attachment 16a – NYSDOT Regional Zone Map) resulting from this RFP. The regional zones are defined as follows:

1. Eastern Zone which consists of Region 1 (excluding Essex County), Region 8(excluding Westchester County) & Sullivan County.
2. Western Zone which consists of Regions 4, 5 & 6.
3. Central Zone which consists of Regions 2, 3, 7, 9 (excluding Sullivan County) & Essex County from Region 1.
4. Downstate Zone which consists of Region 10, Region 11 & Westchester County.

Individual contract numbers shall be assigned to each contract selected for tentative contract award. When Consultant services are needed within the Zone, a Task Order will be issued to the Consultant holding the Primary Contract; if the Primary Consultant is unable to accept an assignment, has a conflict of interest, or fails to perform, the task order will be given to the Consultant holding the Secondary Contract. Consultants may be awarded contracts in multiple zones. In instances where more than one appraisal is needed for a parcel, the Primary Contractor will receive one assignment and the Secondary Consultant will receive the second assignment. In instances where the Primary and/or the Secondary Consultant is unable to perform the work, the region will solicit quotes for that Task Order from qualified firms having proven geographic competency. If Primary Consultant is unable to accept an Order, they must inform NYSDOT by close of the following business day (5:00 pm). Repeated inability to accept the order may constitute a breach of contract.

3.3.2 Payment Method
Payment shall only be rendered following acceptance of a completed Task Order. In some instances, the Department may agree to make partial payments for orders with multiple appraisals; the agreement to make partial payments must be made in advance of commencement of work on the Task Order.

3.3.3 Total Contract Value: To have resulting Primary and Secondary contracts for each Regional Zone with total contract values as follows:

Eastern Zone: $500,000.00 with 90% allocated to the Primary Consultant and 10% allocated to the Secondary Consultant.

Western Zone: $600,000.00 with 90% allocated to the Primary Consultant and 10% allocated to the Secondary Consultant.

Central Zone: $400,000.00 with 90% allocated to the Primary Consultant and 10% allocated to the Secondary Consultant.

Downstate Zone: $2,000,000.00 with 90% allocated to the Primary Consultant and 10% allocated to the Secondary Consultant.

NOTE: These amounts listed are estimated based on historical spending and NYSDOT makes no representations with respect to the volume or value of future work.
3.3.4 Consultant and Sub-Consultant Arrangements

Proposers are encouraged to submit the names and license numbers of qualified Subconsultants who may perform work assigned to the Consultant. A Subconsultant shall be defined as any firm or person engaged or assigned to perform work under the Contract who is not a full-time employee of the Consultant.

Prior to the use of any Subconsultants, Consultant must provide to NYSDOT a fully executed signed agreement between the Consultant and Subconsultant in which the Subconsultant has agreed to the same terms and conditions as the Consultant has agreed to under its contract with NYSDOT. Proof of qualifications, licensure and insurance must be provided as well. All Subconsultants shall meet all the RFP’s minimum requirements. A subconsultant may not further subcontract work. Any costs associated with subcontracting are the obligation of the Consultant who shall remain fully responsible to NYSDOT for the acts and omissions of the subcontractor and/or persons either directly or indirectly employed by it in the performance of services under the Contract. Consultant shall not in any way be relieved of any contractual or financial responsibility under the Contract by its agreement with any subcontractor or by an NYSDOT approval of such an agreement with a subconsultant.

NYSDOT reserves the right to reject any proposed subconsultant for bona fide business reasons, which may include, but are not limited to: that the proposed subcontractor is on the Department of Labor’s debarred list; NYSDOT determines that the company is not qualified; unsatisfactory contract performance of services previously provided.

NYSDOT does not generally desire to enter into “joint-venture” agreements with multiple firms. In the event two (2) or more firms desire to “joint-venture,” one firm must propose and maintain its status as the Right of Way Appraisal Services Consultant with the remaining firms participating as sub-consultants.

There are no Disability Business Enterprises (DBE), Minority Business Enterprises (MBE), Women-owned Business Enterprises (WBE) and Service-Disabled Veteran Owned Businesses (SDVOB) contract goals for this procurement; however, MBE, WBE, DBE or SDVOB participation is encouraged.

3.4 Contract Terms and Rate Adjustments

The base term of the contract is three (3) years commencing on July 1, 2020 or upon the NYS Office of the State Comptroller’s (OSC) final approval of the contract, whichever is later, and ending three (3) years thereafter. NYSDOT reserves the right to extend the contract for up to two (2) additional 1-year terms which, if the options are exercised must be approved OSC. At the end of the final term of the Agreement, Consultants will have an additional six (6) months to complete and submit any outstanding Task Orders and invoices for payment.

The Department has determined that a benefit to the Department will be derived by the timely completion of the Task Order for appraisals on capital project acquisitions. Therefore, the CONSULTANT will be awarded incentive payments of $100 per day up to five (5) business days upon acceptance of the completed Task Order assignment prior to the original submission date stated in each Task Order. Late submission of the Task Order assignment or submission of an assignment which is not acceptable will result in a disincentive assessment of one percent (1%) of the entire Task Order fee per day with no limitation, which will be deducted from money due the CONSULTANT.
If the contract is extended for the optional years, the Producer Price Index (PPI) as published by the U.S. Department of Labor, Bureau of Labor Statistics, or 2%, whichever is lower, will be used as a basis for adjusting the amounts set forth in Consultant’s cost proposal. The rate adjustment will be effective on the first day of the commencement of the fourth year of the contract and calculated using the previous September Index, using Series ID PCU5313205313201 (PPI industry data for Offices of real estate appraisers-Real estate appraisal services, not seasonally adjusted: https://beta.bls.gov/dataViewer/view. If at any time the above Index Series ID is discontinued or becomes unavailable, the State reserves the right to implement a comparable index.

An example of the rate adjustment calculation is as follows (all numbers and titles used are for illustrative purposes only):

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<th>Description</th>
<th>Value</th>
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<tr>
<td>QAT-2 Auditor 1/1/12 - 12/31/12 Billing Rate</td>
<td>$9.00/Hour</td>
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<tr>
<td>October 2012 PPI Index (PCU5413--5413--)</td>
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<td>October 2011 PPI Index (PCU5413--5413--)</td>
<td>130.0</td>
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<td>Index Point Change</td>
<td>2.1</td>
</tr>
<tr>
<td>Divided by previous Index</td>
<td>130.0</td>
</tr>
<tr>
<td>Percent change, rounded to nearest tenth</td>
<td>1.6%</td>
</tr>
<tr>
<td>QAT-2 Auditor 1/1/13 – 12/31/13 Billing Rate ($9 x 1.016)</td>
<td>$9.14/Hour</td>
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</tbody>
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4 SCOPE OF SERVICES

4.1 Project Overview
Consultants awarded contracts as a result of this RFP shall provide qualified Appraisers to provide appraisal services on an as-needed, task order basis for the term of the contract. Appraisal services may be needed on acquisitions for transportation construction projects, to establish fees for properties under use and occupancy, and to sell NYSDOT owned property as surplus. Occasionally, appraisal services may be needed under other circumstances which shall be described in the Task Order. Some regions will have a greater need for consultant appraisal services than others.

NYSDOT’s Task Orders shall include, but not be limited to, the following services:

- Appraisal of real estate;
- Appraisal of structures;
- Appraisal of land improvements;
- Appraisal of fixtures or other attachments that traditionally are conveyed as part of real estate transactions;
- Acquisitions of fee title or easement interest in the property to be used for the proposed improvement;
- Surplus Property;
- Use and Occupancy
- Transverse Crossings

Task Orders are typically prepared by the Regional Appraisal Manager and shall include the following:

a. Scope of Work, including the number and type of appraisals required.
b. Special requirements (if any).
c. Project schedule, including duration of assignment and required completion date as determined by the Regional Appraisal Manager.
d. A template to be used for the Appraisal Report.
e. A list of design documents being provided to the Consultant for use in determining the impact of the project on the property being acquired as well as the impact on the property not being acquired, per Chapter 5 of the NYSDOT Highway Design Manual, to including but not limited to the following:
   i. Baselines and center lines.
   ii. Proposed construction work limits such as toes and tops of slopes or safety-related clear areas.
   iii. Anticipated construction operations and stages, traffic control plans, erosion and sediment control plans.
iv. Proposed structures such as bridges with wingwalls, buildings, sidewalks, retaining walls, and sign and lighting structures.

v. Existing private underground services such as utility lines, wells, septic systems, and storage tanks (especially when the site is known as a former gasoline station location).

vi. Approximate boundary of contaminated soils, if known.

vii. Existing and proposed access control delineated and labeled.

viii. Existing and proposed aboveground and underground private and municipal utilities (e.g., fire hydrants, underground utility lines & structures, utility poles, signal poles, pull boxes.

ix. Proposed drainage facilities, including piping, underground structures, headwalls, open ditch lines with the direction of flow indicated, and stormwater management facilities.

x. Existing highway boundary lines and proposed right of way acquisitions.

xi. Types of acquisitions indicated and labeled with the purpose of each easement.

xii. The limit of work on all side roads and driveways.

xiii. Any building acquisitions and all structure encroachments into the ROW.

xiv. The separate identification of all properties from which ROW is being acquired but were not identified, or were identified but are no longer needed, on the Abstract Request Map.

Consultant contracts will be administered and managed by the Director of NYSDOT’s Office of Right of Way or his/her designee. Task orders will be administered and managed by the Regional Appraisal Manager or his/her designee, in the region issuing the order.

Consultant shall be required to confer with the NYSDOT Appraisal Reviewer and/or Appraisal Manager throughout the appraisal process, beginning with participation in a pre-appraisal meeting and periodically throughout the assignment as needed. In accordance with the requirements of law, regulations and USPAP, each appraisal will be reviewed and, depending on appraised value and complexity of the appropriation, undergo a second level review. Consult will be expected to confer and cooperate with NYSDOT personnel, and to provide sufficient evidence within their report, satisfactory to NYSDOT, to support their opinion of value. The scope, schedule and description of the work to be performed by the Consultant will be completely defined and authorized on a project-by-project basis in a Task Order.

### 4.2 Certifications

All appraisal reports must be certified by an appraiser who meets or exceeds the qualification level of an assignment established in the Task Order. Additional certifications, if any, must be signed by those whose work contributed to the appraisal report.

### 4.3 Qualifications

Task Orders will specify anticipated project complexity and request for services based on qualification level of needed services.
Consultants shall be required to provide the following three (3) levels of appraisal experience:

Level 1: Requires the services of a general certified appraiser with at least 3-5 years of appraisal experience and a minimum of 1 year of eminent domain appraisal experience.

Level 2: Requires the services of a general certified appraiser with at least 5 years or more of appraisal experience and a minimum of 3 years of eminent domain experience.

Level 3: Requires the services of a general certified appraiser with at least 10 years of appraisal experience and experience appraising complex properties (i.e. - Large Industrial, Special Purpose, Mixed Use Complexes) and a minimum of 5 years eminent domain experience. This level appraiser would be expected to have more complex partial acquisition experience including a broad range of property types.

Please Note: Cost proposals shall reflect the levels of appraisal experience referenced above. For example, it is expected that an appraiser performing Level 1 work will be less costly than an appraiser performing Level 2 work.

4.4 Training
Consultants will be expected to know and understand the terms of the Contract. To that end, prior to performing any services under the Agreement, Consultants and their Subconsultants must attend a Mandatory Training Session at a date and time to be scheduled by NYSDOT.

Thereafter, both Primary and Secondary Consultants awarded contracts under this RFP shall be required to attend a Mandatory Training Sessions at least one (1) time per year on relevant eminent domain statutes, regulations and caselaw.

Training will likely be given at NYSDOT’s Main Office, located at 50 Wolf Road, Albany, NY 12232, but exact dates, times and places will be provided to those Consultants who are awarded contracts.

4.5 Categorization of Work
Project work is generally divided into the following sections:

- Sales Brochure (Covering the Market, if required)
- Economic Land Analysis Study or Feasibility Analysis of the Highest and Best Use
- Appraisal Report
- Project Plans and Effects of Construction
- Appraisal Revisions and/or Updates
- General Map and Property Appropriation Maps
- Submission of an Appraisal Check Sheet
4.6 Tasks

Task 1. Sales Brochure (Covering the market; if required)

Sales Brochures are required in specified cases within the individual Task Order, typically for projects with 10 or more maps.

A. A comprehensive Map Exhibit showing the location of all comparable sales or rentals. All maps shall have labeled North arrows. All notations and labels shall be clear and legible. Any copies must be clear and legible.

B. Each comparable sale sheet shall include, at a minimum, the following:

1. Property address and location.
2. Representative photograph(s) as appropriate, with date of inspection.
3. Tax map number.
4. Sale price, sale date.
5. Financing terms and conditions of sale.
7. Identification of the parties to the transaction.
8. Verification of the sale or lease must be done with a party to the transaction or their representative. This shall include grantor or grantee, listing or selling realtor, attorney for any party to the transaction, leasing agent if an income property, or any other legally appointed representative for the primary transaction participant. Sales and lease data which cannot be verified to this standard, but which provide compelling information within a valuation, can be included as additional supporting information, but may not be used as the sale or lease upon which a value opinion is based. All efforts undertaken, and difficulties encountered when verifying transactions should be disclosed. Verification information shall include the person’s name, contact information and date verified.
9. Total site area in Acres and/or Square Feet. Both shall be provided if appropriate and relevant to the market data of the valuation assignment.
10. A simple sketch or site plan showing site dimensions, along with any features or site and building improvements relevant to the appraisal assignment. An aerial overlay of a tax map is acceptable. If the Sale or Rental is of an improved property, identify the approximate setback dimension of the building improvement from the highway boundary. Any other improvements on site such as business signs, parking spaces, wells, septic systems and any other underground improvements not visible shall be identified as well.
11. Zoning classification as of date of valuation and whether it represents compliance. Identify any variances, non-conforming conditions, and any pending zoning changes or master plans which may affect the reported price.
12. Utilities available to the site. For vacant land, indicate where the main lines and laterals may be available.


14. An allocation of the sale price into land and improvements must also be furnished.

15. Average Annual Daily Traffic Count (AADT) on all sales considered as commercial, whether as zoned for commercial use or indication of potential use, when available. NYS Traffic Data Viewer Link: https://gis3.dot.ny.gov/html5viewer/?viewer=tdv.

Task 2. Economic Land Analysis Study or Feasibility Analysis of the Highest and Best Use

The Economic Land Analysis Study of the project area should include (but not be limited to) a study and analysis of sales and relationships of any trends, patterns, or other economic factors which may affect real property values, with an explanation of the extent and how they reflect changes in value, if any, throughout the project limits. The activity in the market at the time of the appraisal Task Order should be concisely documented in a brief narrative and include details of real estate development underway, imminent zoning changes or master plans in process.

Development which is underway and market interest in the market sectors comparable to the subject property(s) are of prime importance and should be the focus. A list of all active and pending offerings (or lease offerings for assignments relying on the Income Approach to value) in the market sector shall be provided. This data provides the basis for additional potential comparable sales at the time settlement negotiations may be underway. The listing information shall include: Address, List (Offering) Price, Tax Map No., Property Type/Zoning, Site Size, Improvement Size, Exposure Time on the Market. Assignments which rely on the Income Approach to value shall provide lease offerings to the same level of detail as a closed sale transaction.

Task 3. Appraisal Report

Influence of Project on Just Compensation per 49 CFR 24.103(b)

To the extent permitted by law, the appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

Section 24.103(b) Influence of the project on just compensation. As used in this section, the term “project” means an undertaking which is planned, designed, and intended to operate as a unit.

When the public is aware of the proposed project, project area property values may be affected. Therefore, property owners should not be penalized because of a decrease in value caused by the proposed project nor reap a windfall at public expense because of increased value created by the proposed project.

All Appraisal Reports shall be compliant with the Uniform Standards of Professional Appraisal Practice (USPAP) and prepared in accordance New York State case law, including the Before and After method, as appropriate. Only work prepared in accordance with these guidelines will be acceptable. The website for the Appraisal Foundation’s most current edition of the USPAP,
which is updated every two years, is http://www.uspap.org/. The Regional Appraisal Manager will provide a specific template to be followed at the time of Task Order. Each Appraisal Report shall contain the elements listed below:

A. Caption / Title Page (A Format will be provided for Consultant’s use as an attachment to the Agreement):
   1. Project designation: Include PIN, Project name, SH, Proceeding
   2. Map/Parcel Numbers (Include type of taking; FEE, PE, TE)
   3. Reputed Owner name
   4. Representative Photograph of the subject
   5. Location, and Address if different, of property appraised
   6. Total area of property to be appraised in acres and/or square feet
   7. If for acquisition, include the area(s) to be acquired in acres and/or square feet
   8. Include both acres and square feet where applicable and relevant to the assignment
   9. Appraiser’s Name and Firm
   10. Effective Date of Appraisal

B. Purpose of Appraisal:
   1. Statement of value to be appraised
   2. Type of title on which value is estimated, such as “fee simple”, “leased fee and/or leasehold”, “life estate and/or remainder interest”, etc.
   3. Identification of the Larger Parcel, considering the three tests: Unity of Title, Unity of Use and Contiguity
   4. What is to be appraised, such as “entirety”, “partial taking”, “control of access”, “easement interest”, etc.
   5. Identify all occupants and leases affecting the subject property, and include a copy of the lease(s) when obtainable.

C. Narrative Description of Property:
   1. State, in plain and concise wording: General location, zoning restrictions, assessments, total area, land usage, type and size of improvements (number of stories, GBA, etc.) and any special features that add to or detract from the value of the property.
   2. In the event of a partial taking, describe the remaining land and the remaining improvements.

D. Delineation of Title:
   1. All transactions involving the subject within five years of the date of appraisal must be included in the report in the following format:
A copy of the most recent deed and any other public record documents upon which the report relies should be included in the addenda.

E. Methods of Appraising:

1. State highest and best use on which the appraisal is based. For improved properties, the highest and best use “as though vacant” and “as improved” should be established. Where present land usage, as set forth in the narrative description of the property both before and after the taking, is not the premise on which the estimate is based, it should be explained and supported.

2. The Before and After valuation method is integral to partial acquisition appraisal. This is most commonly encountered in appraisal for property acquisition. The Before and After concept is also relevant (in reverse) when valuing a lease or excess property where the State’s property provides a benefit within an assemblage to an adjoining property.

3. Regardless of report format (reference is made to #8 below) the appraiser must demonstrate and state in narrative how they have considered the Before and After Value method and its relevance to the specific assignment.

4. By using the Before and After appraisal methodology, the difference between the two value estimates will establish the value of the property being acquired, and any damage to the remainder property or lack thereof.

5. The Larger Parcel must be identified in every assignment, and stated clearly in the Summary of Salient Facts, within the definition of the Appraisal Problem and/or the Scope of Appraisal sections.

6. For improved properties, regardless of whether the highest and best “as vacant” is the same or different than the highest and best use “as improved”, a separate valuation of the land only is required.

7. State the three approaches to value used and their relevance to the specific appraisal assignment. If any of the three requisite approaches are not used, the appraiser should explain why they are not appropriate. If specific approaches to value are requested in the appraisal assignment, any exclusion of the required approaches must be requested in writing and approved.

8. A “Value Finding Report” format constitutes a “Restricted Appraisal Report” as defined in the USPAP. This may be used when compensation is $50,000 or less. If the appraised compensation exceeds $25,000, a market grid with explanation of adjustments is required in the report. Compensation of $25,000 or less does not require a market grid or explanation of adjustments. This type of report does not require both a before and after value recitation, but the before and after methodology should always be implicit within the appraiser’s valuation process. The majority of acquisitions, particularly in regions north and west of Westchester County, will likely require Value Finding Reports only.

9. “Before and After” format appraisals are subject to an important qualification - that the after valuation must eliminate any consideration of damages that are not compensable
under law. Also, any special benefits accruing to the property as a result of the public improvements should be unequivocally substantiated and accounted. If benefits are clearly able to be valued, then they shall offset any or all of the consequential or severance damage to the remainder property. Further information regarding compensable and non-compensable damages can be provided by contacting NYSDOT’s Regional Right of Way offices.

10. “After Value” estimates, both as to land and improvements, should be supported by one or more of the following methods:

   a. Sales of properties comparable to the remainder and which possess qualities that
      *bracket the major value features* identified in the subject property.

   b. Sales of comparable properties from which there have been takings for like usage.

   c. Studies of previously acquired partial takings can be made and included to
      support financial impacts resulting from similar takings and projects. If this type
      of support is believed appropriate, the extra time and cost should be included in
      the bid of appraisal services.

   d. The economic loss or gain brought about by the change in land usage, changes in
      units of production, cost of operations, changes in rentals, etc.

11. In both full and partial acquisition of property the value of the land to be acquired and the damages to the remainder property shall be analyzed and tabulated showing the allocation of each allowance. This breakdown will include an evaluation of all interests: fee, leasehold, right of way, or usage easements, etc. All interests will be separated and clearly shown in an allocation and summary of damages. **All appraisal reports shall include the tabulation in the format provided in Attachment 20 – Summary of Valuation - Allocation of Before and After Values. Additions to this format may be included, but the content, order of major categories and the format should not be changed.**

12. All appraisals shall include either a brief summary or reconciliation of value within each report as follows:

   1. Value Finder Appraisals:
      a. Shall include a clearly written brief Summary;
         i. Explaining how each comparable was weighted;
         ii. A brief summary of adjustments;
         iii. The reasoning behind the adoption of the unit value;
         iv. The adjusted range of value.

   2. Full and Before/After reports:
      a. Shall include a clearly written Reconciliation of value;
         i. Explaining how each comparable was weighted;
         ii. A detailed explanation of adjustments;
         iii. The reasoning behind the reconciliation of value arrived at via the Sales
             Comparison Approach, or any combination of approaches to value developed;
iv. An adjusted range of values.

F. Documentation:

1. Calculations should be shown within the various approaches to value and wherever they are an integral part of a value opinion.

2. Sales and Rentals Comparison Grids: All grids must be legible and clear. The subject and all comparable properties, together with the elements of comparison and all adjustments applied should be presented on a single page format. Total gross and net adjustments to each sale shall be included and expressed as a percentage of the unadjusted unit price. The sales chosen should have the same or reasonably similar highest and best uses. The sales and rentals should clearly qualify as substitutes that any reasonable market participant would consider.

3. Building and Site Improvements:
   a. Wherever possible, the appraiser must verify the measurements of any affected building and/or site improvements during field inspection.
   b. When the Cost Approach is relied on, references of cost figures must be specified by manual and page, or website and specific section.
   c. If an engineering cost estimate is employed and appended to the appraisal, an Extraordinary Assumption should be included and specify which part or parts are incorporated and upon which the appraiser relies.
   d. Site Improvements should be valued based on the enhancement value they contribute to the total market value and kept in context of the Before and After value method. This is typically developed through a depreciated cost in place analysis.
   e. Use of reproduction cost is only appropriate when setting forth values within a Cost to Cure to reduce or eliminate severance damages.

4. Market Data (this applies to sales, rentals and leases which may be considered as comparable for the appraisal):

5. Project Influence on Comparable Sales
   A statement shall be included affirmatively stating that the appraiser considered any market reaction to the upcoming “Public Project” that may, or may not, have impacted the market value of the comparable sales selected and used in all appraisal reports.

The appraisal shall contain properties comparable to the subject and should meet the standard of being true and reasonably similar substitutes for the subject property being valued by market participants. Comparable market transactions should be the most recent available, must bracket as many of the major value indicators as possible identified in the subject property and/or the appraisal problem. Sales and rentals need not necessarily be in the immediate area. Where proximal data is not easily obtained, it is acceptable to expand the search and time frame as needed and select data from comparable market areas which have demographics and market characteristics comparable to that of the subject property. When search parameters are expanded, the appraiser must fully explain the reason(s) for taking such measure.

   a. Comparable Sales or Comparable Rentals *(replace “sale” with “lease or rental”) shall include the following data as a minimum:
1. Sale date
2. Sale price
3. Type of financing
4. Parties to the transaction
5. Liber and page at which the instrument of conveyance is filed
6. Conditions of sale (Must be “Arms-Length”)
7. Location
8. Sketches shall be provided showing total area, property dimensions, exterior dimensions of building improvements and their setback from the highway boundary
9. Zoning
10. Utilities
11. Photographs (Must be originals, web or google photos are not acceptable)
12. Highest and best use of property
13. AADT (Average Annual Daily Traffic Count) shall be reported for commercial and industrial properties, when available

NYS Traffic Data Viewer Link: https://gis3.dot.ny.gov/html5viewer/?viewer=tdv
14. Verification consultant name and date
15. A monetary breakdown of sale into land and improvements must be furnished
16. The degree of comparability with the subject property being appraised expressed in dollar amounts plus/ or minus, and an explanation of the degree of comparability shall be embodied in the report
17. A location map showing a relationship between the subject property and the properties used as the criteria of value shall be included in the addendum to each report. Streets, Roads and Highways should be identified on location maps.

**NOTE:** ALL MARKET DATA MUST BE VERIFIED WITH A KNOWLEDGEABLE PARTY. THIS SHALL INCLUDE GRANTOR OR GRANTEE, LISTING OR SELLING REALTOR, ATTORNEY FOR ANY PARTY TO THE TRANSACTION, LEASING AGENT IF AN INCOME PROPERTY, OR ANY OTHER LEGALLY APPOINTED REPRESENTATIVE FOR THE PRIMARY TRANSACTION PARTICIPANT. IF VERIFICATION IS WITH A PARTY OTHER THAN THOSE LISTED, A DETAILED EXPLANATION IS REQUIRED. NYSDOT RESERVES THE RIGHT TO REJECT REPORTS WITH IMPROPERLY VERIFIED MARKET DATA.

c. With the exception of appraisals for court, all appraisals shall establish economic rent for acquired structures by comparison to comparable market rentals or leases.
d. Income projections shall be supported by showing comparable properties as the source of economic income and itemize the expenses relative to that income. The source for the capitalization rate shall be shown, outlining the justification for such value.

e. Reproduction or replacement cost estimates of structure shall be supported by indicating the source of the unit values and location multipliers used in the estimate and related depreciation schedules shall be explained.

5. Photographs:
   a. Include quality images representative of the subject, its location, street photos in both directions and all elements contributing to or impacting value which are relevant to the valuation.
   
   b. Photographs shall be properly identified and taken at various angles to show significant features of the property appraised, with a focus on any of the improvements affected, whether anticipated or to be acquired.
   
   c. Interior photographs are required for buildings which will be acquired in their entirety. Interior photographs shall also be included for the portions of properties where significant severance damages are identified, and even in cases where they may only be anticipated.
   
   d. Each photograph shall carry either on itself or by reference unalterable identification showing such information as the date, by whom and position from which taken, owner of the property, street or lot number, and any other information which would establish the parcels or property involved and the authenticity of the photograph. Reproduced original photos or original digital photographs will be allowed if they clearly depict the property. Each such photograph shall carry either on itself or by reference unalterable identification showing such information as the date, by whom, and location and direction from which the photograph is taken.

6. Exhibits and Property Sketches
   a. Well documented exhibits are required to properly illustrate the property, both before and after acquisition, or within any potential assemblage with an adjoining property.
   
   b. Photocopies of the tax map shall not be substituted for property sketches unless details can be adequately illustrated.
   
   c. A copy of the acquisition map or conveyance map shall be included in all reports.
   
   d. Exhibits shall illustrate and identify with legible labels:
      
      i. A clearly labelled north arrow
      
      ii. Major highways and streets labelled
      
      iii. Access points identified
iv. An outline of the area to be acquired and the remainder, showing relevant dimensions

v. Location and setback of any significant improvements and features

vi. A delineation of parking spaces

vii. Relationship of the improvements to the taking area

viii. A floor plan for any building which is severely affected or taken entirely.

7. An itemized list of the documents reviewed by the appraiser in order to fulfill the Task Order.

G. Intended User:

The Intended User of the report shall be stated as “New York State Department of Transportation” and indicate no individuals or other government agency or department unless specifically requested for that assignment. While a Cover Letter can include the name of a Regional Office of Right of Way staff member, the Title Sheet, Certification and specific statement of Intended User shall only reference the Department.

H. Rounding:

Rounding shall comport with NYSDOT’s Rounding Instruction which will be provided to Consultant with the Agreement.

I. Inspection of Subject Property:

The following steps must be followed for each appraisal:

1. The appraiser(s) signing the report certification shall inspect the subject property.
2. Appraiser(s) shall provide the property owner with an opportunity to accompany them on the inspection. The appraiser shall do so in writing, via letter or email, with a follow up phone call. Attempts to meet with the property owner must be documented in the appraisal (see below). A form letter for Consultant’s use will be provided with the Agreement.
3. The accounting of the offer made to the property owner to accompany the appraisal shall be documented in writing within a specific section of the report indicating who they contacted, the date and time of the contact, the result of the contact, and any follow up if a property owner or their representative was not responsive. Second follow up shall include either a phone call or a personal visit at the time of inspection.
4. Provide a copy of the letter or email in the addenda.

J. Certificate of Appraiser:

A certificate shall include all terms as indicated within Attachment 23 – Appraisers Certification. While the Consultant can include additional statements as may be required by professional organizations with which they are affiliated, they may not eliminate or remove
any of the statements as shown. It is also acceptable for the consultant to provide an additional, separate Certificate to satisfy their professional obligations for reporting. In all cases, the Certificate shall state the opinion of value set forth.

K. Conclusion and Justification:

Set forth the indicated value and outline the justification for such value. Where two or more approaches to value are used, a clearly developed correlation shall be provided. A reconciliation shall include sufficient reasoning and rationale incorporating a summary of all relevant observations and analysis presented throughout the report to convince the reader of their value conclusion. A mere statement of a value opinion is not sufficient.

L. Signatory of the Report:

The appraiser approved as per the Agreement shall sign as the primary signatory of a report. A secondary appraiser may be included as a co-signatory on appraisals as long as the NYSDOT approved appraiser is the primary signatory. Court of Claims appraisals shall be signed exclusively by the appraiser who will testify before the court and will be recognized as such as the author of the filed proof.

Task 4. Project Plans and Effects of Construction
The Consultant shall participate in meetings, discussions and correspondence with NYSDOT during the preparation of appraisal reports. A pre-appraisal conference is required for all assignments, unless otherwise noted. The appraiser is expected to request additional information or documents, if needed, to complete the assignment.

Task 5. Appraisal Revisions and/or Updates
Upon the request of the Department, the Consultant shall make reappraisals of properties which may be required:

A. Due to change of physical conditions not indicated at the time of the original appraisal.

B. Due to map revisions, subsequent to the original appraisal.

C. Due to a marked change of value which may have occurred.

Task 6. General Map and Property Appropriation Maps
On project portions, for which maps have been furnished, where buildings or improvements are to be acquired or where buildings or improvements are severed without access, priority shall be given to furnishing the appraisals at the earliest possible date, pursuant to the directions of representatives of the Department.

The Consultant will be instructed to proceed with the property inspections and appraisal work required under this Agreement and at that time the Consultant will be furnished with project plans, or portions thereof, of the project and a copy of each of the individual appropriation maps pertaining to the properties shown on the project plans or portions thereof. In the event only a portion of the project plans, with associated individual appropriation maps, is initially furnished and the remaining portions of the project plans, with associated individual appropriation maps, is initially associated appropriation maps, for the project are furnished in succeeding stages, the Consultant shall accomplish the appraisal work for the portions of the project in the order established by the availability of the maps.
The project plans will indicate the outlines of properties to be acquired, in whole or in part, but will have neither detailed dimensions nor metes and bounds descriptions thereon. Detailed dimensions and descriptions of the property to be acquired will be shown on the individual appropriation maps.

Task 7. Submission of an Appraisal Check Sheet
To ensure that the appraisal reports are mathematically correct, reflective and consistent with the appropriation maps, and in compliance with the instructions provided by the Department, the Consultant shall have a compliance check performed and submit a completed appraisal check sheet to the Department for and with each and every appraisal submitted to the Department. To assist in this regard, Consultants will be provided with a sample appraisal check sheet to be used with each report. The check sheet shall be signed by the individual who performed the compliance check and also by the individual who signed the Certificate of Appraiser. The compliance check shall be performed by someone other than the individual who signed the Certificate of Appraiser.

4.7 Deliverables
A. All final reports shall be delivered to the Regional Appraisal Manager or as directed by NYS DOT, by the completion date, with no further corrections needed. In some instances, a Task Order may require that a draft appraisal report be provided to the Regional Appraisal Manager prior to the completion date.

B. Copies; Printed, paper copies are to be prepared and delivered as follows:
   1. Project Appraisals over $50,000: (1) Original, (2) copies
   2. Project Appraisals under $50,000: (1) Original only
   3. Sales Brochure: (1) Original, (1) copy (Main Office Review will have access to the regional appraisal copy of the brochure)
   4. Surplus Property Appraisals: (1) Original, (1) copy
   5. Rental Valuation Report: (1) Original, (1) copy

In addition to the paper copies above, all completed appraisal reports and sales brochures must be available in a PDF version and transmitted electronically to the Regional Appraisal Manager. *Any revised or updated appraisal is a new appraisal assignment* and is to be treated as any other appraisal according to the directions above.

All task-specific deliverables are defined in Section 4.7 above. All records/reports must be in Word, Excel, PDF or another format acceptable to NYS DOT. Documents must be available when requested by NYS DOT or automatically shared with NYS DOT in electronic format via e-mail or managed file transfer (for larger sized documents). Should NYS DOT want to review records pertaining to this contract at the selected Consultant’s offices, NYS DOT shall be given access to those files upon reasonable notice.

The Consultant must maintain all records at a location accessible by NYS DOT staff and in an electronic format acceptable to NYS DOT. Per the contract, all records produced under this contract are property of NYS DOT. Should the work between NYS DOT and the selected Consultant be terminated, all records shall be turned over to NYS DOT or its designated recipient.
5 PROPOSAL FORMAT AND CONTENTS

For the purposes of evaluation, each proposal must be submitted in two parts, bound separately. Part I shall consist of the Technical and Management proposal. Part II shall consist of the Cost and Administrative proposal. Each part of the proposal must be complete, in itself, in order that the evaluation of both parts can be accomplished independently and concurrently. Cost information must not be included in the Technical proposal. The proposal must follow the format described below.

Web links, photographs, and illustrations (except for the organizational chart) are not to be included unless specifically required in this section.

NOTE: NYSDOT will 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. If an offerer believes information included in their proposal is confidential and proprietary, they should identify those page(s) of their proposal which contain such information as “confidential and proprietary”. Additionally, offerers need to explain the reason(s) why this information should be considered exempt from public disclosure under FOIL. This information is to be provided in a separate section of the Cover Letter; a justification must be provided for each page where a claim of “confidential and proprietary” is being made.

COST INFORMATION IS NOT TO BE INCLUDED IN THE PART I SUBMITTAL, AND TECHNICAL AND MANAGEMENT INFORMATION IS NOT TO BE INCLUDED IN PART II SUBMITTAL.

5.1 Part I: Technical and Management Submittal

Part I shall include the following sections:

| One (1) originally signed copy and eight (8) printed, bound and tabbed (3-ring binder) hard copies of Part I plus one (1) copy of Part I on CD/Thumb drive in Adobe PDF compatible format |
| Securely sealed and clearly labeled with the consultant’s name, address, and telephone number and titled “Appraisal Services for NYSDOT_RFP Part I — Technical and Management Proposal (C037878)” |
| Signed Cover Letter on official business letterhead |
| Table of Contents identifying each major section and page numbers |
| Narrative Description |
| Responses to Hypothetical Appraisal Problems 1-4 |
| Organization and Staffing |
| Experience |

1. Cover Letter, and Title page, indicating:
Name, address and phone number of the proposer, and the name, title, address, email, and telephone number of person(s) with authority to negotiate and who may be contacted during the procurement process. Provide a brief description of the proposed approach, work effort and resulting product. Confidential and proprietary information should also be identified and addressed in this section. Not to exceed a single page for the Cover Letter and a single page for the Title Page.

2. A Table of Contents (in the electronic submission - clickable links to the body of the proposal). All sections must be separated by labeled tabs, and every page shall be sequentially numbered from 1 – “last”.

3. Narrative Description
Briefly outline the substance of the proposal. Provide a brief and concise description of the proposed approach and management and administrative efforts. Highlight the strengths and capabilities of your firm and its associated Appraisers as well as Subconsultants and how they can be used to respond to and deliver requested real estate appraisal services for NYSDOT projects on time and on budget. Include enough substantive discussion to demonstrate an understanding of NYSDOT’s project objectives and familiarity with applicable laws, rules, practices, procedural requirements, risks, etc. Explain in sufficient detail how your proposal will help NYSDOT to ensure compliance with applicable requirements of the Eminent Domain Procedure Law and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Specifically, describe how, if selected, the firm will be able to meet the deadlines identified in the task, staffing level, and use of subconsultants if applicable. **Not to exceed two (2) single sided pages.**

4. Responses to Hypothetical Appraisal Problems *(problems can be found at Attachment 24)*
Proposers shall prepare a response to each hypothetical appraisal problem attached to this RFP. Proposers shall prepare a narrative response using only the data provided in the problem. Responses shall not exceed the number of pages identified for each Hypothetical appraisal problem presented. **Page limits are listed on each hypothetical appraisal problem.** Responses shall be 12-point font and single spaced.

5. Organization and Staffing
Consultant shall include the following information in Tab 5:

A. Provide a list all certified Appraisers and assistant appraisers employed by your firm. The chart must clearly name specific persons by identified job titles, presenting credentials in summary format, including license numbers and the name and location of the licensing agency. Include an organizational chart which lists all proposed staff by firm.

B. A description of the proposed appraisal team, including resumes of all appraisers and others whose work will be used in the appraisal report. Identify the specific personnel by title and role and include the individual who will be responsible for communicating with NYSDOT on all contract matters.

C. A Management Plan which identifies and describes how the Consultant shall ensure a supply of qualified Appraisers and manage all required contractual and administrative duties. Describe the responsibilities of each person for the proposed management team, and how overall internal and external coordination will be achieved. The Plan must include an Account Manager who will provide management and oversight to ensure proper delivery of appraisals as well as maintain a supply of qualified appraisers and handle billings, insurance and other administrative matters. Include the resume for the Account Manager(s).

D. If subconsultants will be used, identify the subconsultants, include their license numbers, and provide a copy of the subconsultant contract. If there is no signed contract at the date of proposal, include a draft contract and a letter from the proposed subconsultant on their letterhead expressing their intent to enter into a subcontract with the proposer. The
management Plan must describe how the Consultant will ensure Subconsultant compliance with all contract provisions.

6. Experience

The qualifications and prior experience of selected Appraisal Consultants and staff Appraisers, including Assistant Appraisers and Subconsultants are of significant importance. Prior and relevant appraisal experience and a demonstrated ability to manage multiple and competing projects and deadlines is highly desirable. NYSDOT requires substantial relevant experience and expertise, and consultants must demonstrate that experience through past and current project attestations and must provide reachable, verifiable references. Company experience information should be provided for all proposed firms (reference Attachment 15 – Key Personnel Resume and References) and for all proposed consultant staff (qualifications pages; include resumes and curriculum vita).

Key Personnel: The qualifications and experience of the proposer will be given considerable weight in evaluating the technical proposals. Although not all key personnel are required to have experience in partial acquisitions, it highly desired. The Consultant shall be responsible for providing the following key personnel:

- Level 3 General Appraiser
- Level 2 General Appraiser
- Account Manager (can be the same person as the General Appraiser)

Indicate proposed key personnel who are, or have worked, on appraisals similar to the services that are being requested in this RFP. Include names, addresses and phone numbers of contact points with the listed clients. NYSDOT reserves the right to request information from any source so named.

**Mandatory Requirement:** Provide verification that at least one member of the firm is currently duly Certified to transact business as a Real Estate General Appraiser by the NYS Department of State. This applies to each Consultant and to each proposed Subconsultant. Additionally, at least one member of the Consultant firm, or Subconsultant must qualify for Level 3 assignments as defined in RFP Section 4.1 - Scope of Services Project Overview.

Proposers shall submit three (3) appraisals (with appropriate redactions) completed within the last five (5) years, which they believe best showcases their work considering the work described in the Scope of Services (Section 4) and should include a variety of reporting levels.

Proposers shall provide a minimum of three (3) references for whom appraisal services have been performed within the past three (3) years. Include names, titles, mailing addresses, e-mail addresses, and telephone numbers of references for whom general appraisal work has been completed, using the form provided for in Attachment 15. Please note that NYSDOT personnel will not count toward the three references requirement but may be used to supplement the three references requirement.

NYSDOT reserves the right to request information from all named references, and further reserves the right to contact additional clients of the proposing firm. Failure to provide reachable and responsive references will lead to the downgrading of a consultant’s experience score.

If at any time during the term of the Contract any Key Personnel needs to be replaced, the Consultant shall have 30 calendar days to submit a qualified candidate (same level of experience and expertise) to NYSDOT for approval. The determination that a candidate is “qualified” is the
sole decision of NYSDOT. In the event NYSDOT is in need of services during this period, NYSDOT reserves the right to issue a Task Order to the Secondary Consultant in a particular Regional Zone and charge and bill the Primary Consultant a 10% administrative fee of the value of the Task Order, which will be taken as an offset against future billings.

5.2 Part II: Cost and Administrative Submittal
Part II of the proposal consists of two general sections:

One (1) originally signed and two (2) printed, bound and tabbed (3-ring binder) hard copies plus one (1) complete electronic copy of Part II on Thumb drive in Adobe PDF compatible format, plus Attachment #17 – Cost Proposal Workbook in MS 2016 Excel compatible format.

<table>
<thead>
<tr>
<th>Securely sealed and clearly labeled and titled “Appraisal Services for NYSDOT RFP, Part II — Cost and Administrative Proposal (C037878)”</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required Cost information (complete and submit Attachment 17 - Cost Proposal Workbook)</td>
</tr>
<tr>
<td>Complete and submit Attachment 2: Consultant Information and Certifications (sign both Sections II and III)</td>
</tr>
<tr>
<td>Complete and submit the Attachment 3: Form AOR Acknowledgement of Receipt</td>
</tr>
<tr>
<td>Complete and submit Attachment 4: Procurement Lobbying Law Forms</td>
</tr>
<tr>
<td>Complete and Submit Attachment 6: Non-Collusive Bidding Certification</td>
</tr>
<tr>
<td>Complete and submit Attachment 7: Vendor Assurance of No Conflict of Interest or Detrimental Effect</td>
</tr>
</tbody>
</table>

- A Cost Proposal, which shall set forth the lump sum amount for performing the work in the scope of services; and
- The Administration Section, which shall specify the proposer’s acceptance of the terms and conditions contained in the draft Contract enclosed as Attachment 1 to this solicitation, as well as several other administrative items.

The above general sections shall include the following:

1. Cost Proposal
NYSDOT requires that all cost information be presented using the RFP-provided Microsoft Excel spreadsheets (see Attachment 17, ‘Cost Proposal Workbook’) in both a hardcopy Part II response and an electronic copy on Thumb-drive, securely presented in the Part II response. The accuracy of calculations and formulas in the spreadsheet are the sole responsibility of the offeror.

When completing the Excel cost worksheets included in Attachment 17, offerors shall follow these instructions:

1. The one-time and recurring costs the proposer provides within the Cost Proposal must include ANY AND ALL one-time and recurring fees, charges, or costs for the duration of the contract, including but not limited to:
   a. All direct and indirect costs, all overhead, fees, profit,
   b. Labor, parts, shipping, material and equipment cost;
   c. Software licensing;
   d. Emergency work;
   e. Maintenance services as specified herein;
f. Repairs and replacement of major or minor parts as necessary;
g. Administrative, reporting or other requirements;
h. Travel costs, parking fees, and any other ancillary fees including permits; licenses, insurance, etc., and
i. Services not explicitly stated in these specifications, but necessarily attendant thereto as applicable to the associated item for which the rate/fee is being quoted.

2. Terminology used in the cost spreadsheets for products and services must be consistent with the terminology used in the technical portion of the response.

3. All worksheets included in Attachment 17 must be completed for the response to be considered complete.

4. Proposer should not make any entries in any colored cells in Attachment 17’s Excel spreadsheets. Changes should not be made to the spreadsheet format or formulas. Proposers shall not attach any additional or qualifying information.

Cost Proposal Instructions:

Use Attachment 17 to complete the Cost Proposal response form. This attachment contains instructions to guide completion of this form. Should any questions arise pertaining to this form and its instructions, please submit them to the designated NYSDOT contact person before the Question & Answer deadline.

2. Administration Section
   All signatures on each copy must be an original.

   A. Acceptance of Agreement Terms and Conditions
      Offerors shall complete and submit the “Consultant Information and Certifications Form,” included as Attachment 2 to this RFP, to indicate their acceptance of all of the terms and conditions contained in the draft Contract (Attachment 1). Attachment 2 also requires the signature of an official authorized to bind the offeror to all of its provisions, a statement certifying that the proposal shall remain valid for at least 365 days, a statement that the firm accepts the RFP’s Scope of Services ‘as-is’, and a statement that, if awarded the contract, the offeror will comply with all the requirements of the RFP, including all of its attachments. Altering this form without the prior expressed written approval of the New York State Department of Transportation is prohibited and may lead to the proposal being deemed non-responsive and subsequently dismissed. No exceptions to any of the draft Contract’s terms and conditions will be entertained by NYSDOT. Conditional bids will be deemed non-responsive.

   B. Modification Acknowledgement Forms
      The Proposer shall include a completed Attachment 3: Form AOR, acknowledging receipt of any Modifications issued by the Department.

   C. Procurement Lobbying Law
D. Filing the two required forms is mandatory for all consultants in order to be considered for contract award. These Forms are:

Offerer’s Affirmation of Understanding of an Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b) https://www.dot.ny.gov/main/business-center/consultants/consultants-repository/offers_affirmation_and_agreement_form.pdf

Failure to submit the required PLL forms with your proposal will result in elimination from consideration for contract award.

For additional information, refer to Attachment 4: Procurement Lobbying Law Compliance.

E. Non-Collusion Bidding Certification
All Proposers shall submit a completed Attachment 6: Non-Collusive Bidding Certificate.

F. Vendor Assurance of No Conflict or Detrimental Effect
All Proposers shall submit a completed Attachment 7: Vendor Assurance of No Conflict or Detrimental Effect.

Use Contract Number C037878 wherever requested in the forms. Please call or e-mail the individual identified as the Designated Contacts in section 1.4 of this RFP if you have any questions regarding how to complete this required form.

Per the Procurement/Lobbying Law of 2005, any person who wishes to contact NYSDOT regarding this project during the restricted period (i.e. from advertisement through designation), may only contact the persons noted in Section 1.4 to this solicitation.
6 CRITERIA FOR EVALUATION OF PROPOSALS

6.1 General

Proposals shall be pre-screened to determine if they meet the “Minimum RFP Responsiveness” (reference Section 1.3). Those which do not shall be deemed non-responsive and shall be removed from further consideration.

Proposals shall then be evaluated by the Department using a Best Value Method evaluation process based on the technical and cost criteria described below. Technical considerations are of greater importance than pricing considerations; however, price is a significant factor in the Department’s evaluation of proposals. Technical proposals will be scored based on the information provided under Section 5.1 in accordance with the pre-established criteria listed in Section 6.3. The cost portion of Section 5.2 will be point scored in accordance with the pre-established criteria listed in Section 6.4.

Technical and Management Proposal evaluation will be accomplished by a representative committee comprised, as appropriate, of technical, program and management personnel. Committee members will score each proposal individually and then meet as a group to discuss the proposals. Evaluators will be allowed to revise scores on the basis of the committee discussions.

Evaluators may ask proposing firms clarifying questions about the proposals. If written clarifications are required to complete the technical evaluation of proposals, evaluators will be allowed to revise their technical scores based on clarifying information. Furthermore, the Department reserves the right to ask clarifying questions regarding each cost proposal (Part II).

The Department reserves the right to request best and final offers from firms that are determined to be susceptible for contract award.

Primary and secondary awards shall be made to the top two (2) firms for each regional zone whose proposals receives the highest total scores after considering all technical and cost/price evaluation factors. Should NYSDOT opt to request best and final offers, it reserves the right to re-score technical and cost proposals. Further, NYSDOT reserves the right to re-score technical and cost proposals should a firm withdraw from this solicitation or be deemed non-responsive after initial evaluation and scoring.

Note: In the event two or more proposals are found to be “substantially equivalent”, the Department reserves the right to award the contract under the terms of State Finance Law §163 (10)(a).

At the conclusion of the evaluation process, an announcement of the Department’s designation(s) will be posted on the NYSDOT web site. All non-designated firms shall be notified in writing regarding the results from the solicitation and will be offered an opportunity to hold a debriefing. Further, it is expressly understood that this Request for Proposals does not commit the Department to award a contract, pay any costs incurred in the preparation of a proposal to this request, or to procure or contract services or supplies. Further, the Department shall have no obligation or liability whatsoever to the vendor selected as a result of this solicitation unless and until a contract satisfactory to the Department is approved and executed by the vendor and all necessary State officials.
6.2 Pre-Screening of Proposals

NYSDOT will conduct a pre-screening of each proposal to ensure all contents have been submitted in accordance with the minimum proposal responsiveness requirements as specified in the RFP. RFP specifications include that it is NYSDOT’s sole discretionary determination as to whether a proposal is complete (reference “Minimum RFP Responsiveness” Section 1.3). Proposals which do not meet the mandatory specifications in the Minimum RFP Responsiveness section will be deemed non-responsive by NYSDOT and will not be considered further.

6.3 Technical and Management (Up to 70 Points)

Contracts will be awarded one Prime Consultants and one Secondary Consultant in each regional cluster (collectively referred to herein as the Consultants). Consultants are the firms submitting the proposals and the firm with whom NYSDOT will contract. Proposals may include subconsultants, but the Consultant will be responsible for the satisfactory performance of the terms of the contract. The Consultant shall identify a single point of contact for all Appraisal Task Orders under the contract who will be responsible for assigning workload, managing workload, monitoring schedules and ensure quality of reports meet Department expectations and requirements (referred to as the Account Manager). If the Account Manager leaves the employ of the Consultant, no later than thirty (30) days from termination of employment, the Consultant must identify a replacement Account Manager.

Proposals which do not meet the mandatory specifications in the Minimum RFP Responsiveness section will be deemed non-responsive by NYSDOT and will not be considered further.

The technical and management proposal will be scored and will represent 70% of the total score for a proposal. The major evaluation criteria are listed in descending order of importance. Sub-criteria within major evaluation factors are also in descending order of importance.

Hypothetical Appraisal Problems - (20 Points)

The responses to the Hypothetical Appraisal Problems shall identify:

- Degree to which responses to Hypothetical Appraisal Problems reflect the Firm’s understanding and comprehension of project scope and objectives.
- The Firm’s understanding of compensable and non-compensable damages.
- Use of correct approach to value.
- Understanding and ability to recognize direct and indirect damages.
- Proper methodology used to value site improvements.
- Proper methodology used to value surplus property.
- Understanding of enhancement value.

Project Lead Key Appraiser Experience and Qualifications- (20 Points)

1. Briefly describe your Project Lead education, years of appraisal or relevant experience and appraisal level.

2. Briefly describe Key Team Member’s education, registration, relevant project experience, years of appraisal or relevant experience and appraisal level.

3. Briefly describe Firm’s experience and ability in delivering effective Valuation Services for projects of similar complexity, size, scope, and function.

Technical and Management-(15 Points)

Provide any information that may serve to differentiate your firm from other firms in suitability for the project, including, but not limited to:
a. Evidence of the firm’s ability to deliver the requested services in a timely manner over the term of the contract.

b. Evidence of internal quality control (QC) procedures.

c. Any special or enhanced capabilities offered by the firm that may be particularly suitable for this contract. Describe relevancy of resources in the vicinity of the district and their influence on the ability of the team to perform the required services.

d. Any non-discrimination and equal employment opportunities policies of the firm.

e. Information on your team’s management approach.

The Project Lead will be the single point of contact for all Valuation Services and will be responsible for assembling team/valuation resources, assigning workload, managing workload, monitoring schedules and ensure quality of reports meet Department expectations and requirements. Accountability will lie solely with the Prime Lead. This process should provide efficiencies in Procurement of Services, Contract Management, and Payment for services.

**Stability and Resources- (15 Points)**

1. Basic company information:
   
   a. Company name.
   b. Company Headquarter Address.
   c. Contact Information - Name and all contact information (telephone number(s) and e-mail address) of primary proposing contact (this will be the individual with whom the Department will direct all communications).
   d. Company website (if available).
   e. New York Addresses - Identify and provide addresses for the offices located in the State of New York.
   f. Staff - List the number and disciplines of staff members employed in each office in the State of New York.
   g. Ownership - Provide form of ownership, including state of residency or incorporation, and number of years in business. Is the Offeror a sole proprietorship, partnership, corporation, limited liability Corporation, or other structure?

2. Describe your team’s errors and omissions policies and procedures.

3. Describe how your team manages cash flow to subcontractors and team leads.

4. Indicate if your proposed project lead or any team member has ever been removed from a NYSDOT contract or assignment.

5. Briefly describe your business model and procedures for cash flow management and payment to team members for services provided.

**6.4 Cost (Up to 30 Points)**

The cost portion of the cost and contract proposal will be point scored and will represent 30% of the total score for a proposal. The calculation of a cost score will be determined by the following method:

1. The lowest cost Proposal will be perfected to receive the full amount of points.
2. Proposals with higher cost Proposal will receive proportionally lower cost Proposal scores.

3. This point total will be calculated by dividing the lowest proposed price by the total price of each Proposal, multiplied by the maximum weight for the cost Proposal. (30%).

6.5 Written Technical Clarifications
The Department reserves the right to seek written clarifications from firms submitting Proposals to assure a full understanding of their responsiveness to the technical requirements. A Proposer may be required to provide written clarifications at any time during the Proposal evaluation process. Evaluators will be allowed to revise their technical Proposal scores based on receipt and consideration of this additional clarifying information and follow-up TEC discussions. Reasons for any score changes shall be documented.

6.6 Reference Checks
Reference checks (to verify offered experience) shall be required to complete the evaluation of technical proposals. References shall be contacted by Contract Management, via e-mail, utilizing a reference check questionnaire that is conformed to the requirements listed in this RFP. Reference check feedback will be forwarded to the TEC for their considerations during the after-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.

6.7 Best & Final Offer (BAFO, Optional) and Proposal Withdrawal
The Department reserves the right to request Best and Final Offers from firms which make the shortlist. Any Best and Final Offer request may ask additional further clarifying technical and/or cost Proposal questions of Proposers to further clarify their submitted Proposals. The Department also may request a cost only BAFO. Should the Department opt to request BAFOs, all shortlisted Proposers will receive a BAFO request. Responding Proposers will be allowed to submit a Best and Final Offer (technical and/or cost); Proposers may opt to not submit a BAFO. TEC members will be allowed to revise the technical scores for the written technical Proposal based on considerations of any new or changed technical Proposal information contained in any Best and Final Offer (TEC members will re-sign and date the score sheets). If changes to a Proposer’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 Designated Representative shall make the necessary, appropriate adjustments to that Proposer’s cost Proposal evaluation.

Should any firm withdraw their Proposal after a BAFO request, the Department will remove that Proposal’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 Proposer’s information).

6.8 Final Best Value Evaluation
After evaluation of all technical submissions and completion of the technical interviews of the shortlisted proposals, the Department will perfect (curve) the weighted written Technical Proposal scores so that the highest weighted written Technical Proposal score will be assigned a perfect score of 70 points with the other lower weighted written Technical Proposal scores adjusted proportionately downward. Perfected cost scoring results (up to 30 points) will be
added to the perfected technical Proposal score to generate a tentative final best value score by Proposer. Proposers 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 lie within 2 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, the Department will determine the Final Best Value Score, where after the Proposal with the highest Final Best Value score shall be recommended to the Department’s Executive Management for contract award.

### 6.9 Consultant Selection Recommendation & Tentative Contract Award

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

Should negotiations with the Best Value Consultant fail to produce an agreed upon contract(s), then the Department’s Executive Management will designate the tentative contract award to the next highest ranked Best Value Consultant. The Department will then enter into negotiations with the second-ranked Best Value Consultant. This process may repeat itself until acceptable contracts are consummated.

At the conclusion of the evaluation process, an announcement of the Department’s designation(s) will be posted on the Department website. All non-designated firms shall be notified in writing regarding the results from the solicitation and will be offered an opportunity to hold a debriefing. Debriefing request should be made to the Department’s Designated Contact within 5 calendar days of the designation notice. Further, it is expressly understood that this Request for Proposals does not commit the Department to award a contract, pay any costs incurred in the preparation of a Proposal to this request, or to procure or contract any services or supplies. Further, the Department shall have no obligation or liability whatsoever to the Consultant selected as a result of this solicitation unless and until a contract satisfactory to the Department is approved and executed by the Consultant with final approval by the NYS Attorney General’s Office and the NYS Office of the State Comptroller.
7 ADMINISTRATIVE SPECIFICATIONS

7.1 Proposal Submission

The proposal shall be signed by an official authorized to bind the offeror.

Proposers shall submit one (1) originally signed and eight (8) additional copies of Part I and one (1) originally signed and two (2) additional copies of Part II.

Your proposal must be received by NYSDOT by Noon on December 4, 2019. The proposal must be addressed to:

Micheleen Gregware  
NYS Department of Transportation  
50 Wolf Road, 6th floor  
Albany, New York 12232  
Attention: #C037878 - Appraisal Services for NYSDOT

7.2 State’s Rights

All proposals, upon submission to NYSDOT, shall become its property for use as deemed appropriate. By submitting a proposal, the consultant 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 prerogatives with regard to proposals submitted:

a. To accept or reject any or all proposals;
b. To correct any arithmetic errors in any or all proposals;
c. To change the proposal’s due date upon appropriate notification to interested firms;
d. To eliminate any mandatory RFP requirement or specification unmet by all offerors in the evaluation of received proposals;
e. To adopt any or all of a successful offeror’s proposal;
f. 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;
g. 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;
h. To revise/amend any provision of this RFP by written notification to offerors, prior to proposal submission;
i. To eliminate any requirement that is found to be unmet by all offerors;
j. 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;
k. To select and award the contract to the offeror whose proposal represents the best value to NYSDOT;
1. 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;

m. 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.

7.3 Consultant Responsibility when Proposing Former NYSDOT Employees

It is the consultant’s responsibility to ensure they propose staff that is eligible to work on the proposed project. It is an individual’s responsibility to comply with the Public Officer’s Law. If the proposing firm employs a former NYSDOT employee, they may be prohibited from performing the services of the contract, but an opinion will still be needed from JCOPE.

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 New York State Joint Commission on Public Ethics approval for an individual’s participation in a project may jeopardize the firm’s designation for that project.

7.4 Method of Payment

Payment for services provided under the agreement resulting from this RFP will be fixed for the duration of the agreement unless changed by an executed supplemental agreement. The Consultant will designate a Billing Representative who will be responsible for resolving any invoicing issues during the term of the Contract.

Lump Sum Payment shall be based on the acceptance of completed deliverables, identified in the RFP.
Requests for progress and final payments shall be made by the designated consultant on standard payment request forms (FIN 421). Use proper procedure for billing each deliverable: Submit a draft billing to NYSDOT’s assigned Project Manager via the following sample electronic billing: https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions. The sample 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. The last and final payment will become due and payable within thirty (30) days after delivery of the final deliverable(s) and a standard NYS FIN 421 payment request forms.

7.5 Information for the Selected Consultant

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 selected offerors of contracts valued at $100,000 or more will be required to submit a Vendor Responsibility Questionnaire through the Office of the State Comptroller 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. In addition, any subconsultant providing services valued at $100,000 or more is required to submit Vendor Responsibility Questionnaire through the Office of the State Comptroller website.

Registration with NYSDOT
Consultant firms entering into contracts with the New York State Department of Transportation (NYSDOT) as prime consultants, joint venture partners or subconsultants, are required to electronically register their firm using the Consultant Selection System web application (CSSWeb). All consultant firms entering into Non-Architectural/Non-Engineering agreements 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; DBE, MBE and/or WBE 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 Office of the State Comptroller for approval. Registered firms are responsible for verifying and updating their registration information for the duration of the agreement.


Questions regarding the CSSWeb application and firm registration should be directed to the CSSWeb Administrator by email at css@dot.state.ny.us or by telephone at 518-457-2600.

Registration with Statewide Financial System (SFS)
Should this solicitation lead to a designation, the Prime consultants will be required to electronically register with the Statewide Financial System (SFS) - if 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. 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. However, a SFS vendor number is firm name
specific. Since many firms have different variations of their business identities, firms will be required to register in the name of the business entity that NYSDOT is doing business with.

**Consultant Employment Disclosure Requirements of this Project**

Go to Office of the State Comptroller’s Web site (http://www.osc.state.ny.us/procurement/consultantdisclosure.doc) to become familiar with Consultant Employment Disclosure requirements, which went into effect June 19, 2006. The Consultant selected for this solicitation shall be required to complete “State Consultant Services – Contractor’s Planned Employment” (Form A, Attachment 5) 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” (Form B, Attachment 5) and submit copies to the Office of the State Comptroller, the Department of Civil Service, and the Department of Transportation on or before May 15th of each year the contract is in effect.

**Insurance Requirements of this Project**

Please carefully read the terms and conditions of the draft Contract appended as Attachment 1 of this RFP. Your attention is drawn to the insurance requirements for this Project that are contained in Article 12 of the draft Contract. These insurances are mandatory for the firm(s) selected as a result of this solicitation and will not be waived.

**Contractor Tax Certification**

Per Section 5-a of the NYS Tax Law, all vendors selected for contracts in excess of $100,000 for the sale of goods or services must complete and submit Forms ST-220-TD and ST-220-CA (Contractor Certifications) prior to negotiation of a contract with State agencies. You should make yourself familiar with these forms by visiting the following Web sites: http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf (Form ST-220-CA) and http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf (Form ST-220-TD).

**Certification Form EO-177**

In accordance with Executive Order No. 177, the successful Proposer will be required to certify that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law. Certification Form EO-177 will be provided with the contract documents. The completed and signed Certification must be returned with the firm’s executed contract agreement.

**7.6 Inquiries and Information**

All questions concerning this solicitation must be directed only to the individual specified in Section 1.4 of this RFP. The last date to submit questions for this solicitation is stated in Section 7.8 below.

Responses to all questions of a substantive nature, as well as copies of the questions, will be posted to the NYSDOT Web site.

**7.7 Protest Procedure**

The New York State Department of Transportation (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/general-info
7.8 Tentative Schedule of Key Events

NYSDOT will attempt to adhere to the following tentative schedule regarding the progression of this solicitation:

- **RFP Release Date:** October 10, 2019
- **Question Submittal Deadline:** November 4, 2019, 12 noon Eastern Time
- **Proposals Due:** December 4, 2019, 12 noon Eastern Time
- **Recommendation & Designation:** Early January 2020
- **Contract Finalizing:** Late January / Early February 2020
- **Contract Award:** Early May 2020
NEW YORK STATE DEPARTMENT OF TRANSPORTATION

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

COMPTROLLER'S CONTRACT NO. C037878

PROJECT: APPRAISAL SERVICES FOR NYSDOT

This AGREEMENT made this ________ day of __________________, 20____ pursuant to Section 14 of the Transportation Law, by and between THE PEOPLE OF THE STATE OF NEW YORK acting by and through the Department of Transportation (hereinafter referred to as "NYSDOT") 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 appraisal services hereinafter mentioned and fully described in SCHEDULE A, Scope of Services, 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 work described in the Scope of Services (SCHEDULE A, Scope of Services) pursuant to Task Orders 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 and the CONSULTANT'S PROPOSAL dated ___________, incorporated by reference. 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 Account Manager and as such shall have the responsibility for the overall supervision and conduct of the work on behalf of the CONSULTANT. Any change of Account Manager by the CONSULTANT shall be subject to the prior written approval of the NYSDOT. The NYSDOT 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 a Task Order from the NYSDOT.

ARTICLE 2. TERM OF THE AGREEMENT.
The base term or duration of this AGREEMENT shall be for a three (3) year period commencing upon the NYS Office of the State Comptroller’s (OSC) approval and ending three (3) years thereafter. The AGREEMENT may be extended for up to two (2) one-year periods as may be agreed upon by the parties to the AGREEMENT and as approved by OSC. At the end of the final term of the AGREEMENT, Consultants will have an additional 6 months to complete and submit any outstanding Task Orders and invoices for payment.

ARTICLE 3. MAXIMUM AMOUNT
The maximum aggregate amount payable (MAP) by the NYSDOT 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 NYSDOT will only reimburse the CONSULTANT for approved costs incurred in the performance of authorized project tasks pursuant to Task Orders.

ARTICLE 4. AUDIT.
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 audit the work of the CONSULTANT.

ARTICLE 5. PAYMENTS.
A. PAYMENTS
The NYSDOT shall pay to the CONSULTANT and the CONSULTANT agrees to accept as full compensation for its services under this AGREEMENT, the prices contained in CONSULTANT’S cost bid for the work requested, submitted by the CONSULTANT and accepted as satisfactory by the NYSDOT with any adjustments pursuant to Article 13 hereof.

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 NYSDOT beyond the monies available for the purpose. In no event, however, will monies be deleted from this AGREEMENT except pursuant to Article 15 hereof.

If the AGREEMENT is extended beyond 36 months then any and all rates shown in CONSULTANT’s Cost Bid 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 2 percent, all depending upon current market conditions. If at any time the above Index Series ID is discontinued or becomes unavailable, the NYSDOT reserves the right to implement a comparable Index.

B. PARTIAL PAYMENTS
The CONSULTANT shall be paid for appraisals that have been completed and accepted by the NYSDOT in accordance with this AGREEMENT. Payments are subject to the approval of the NYSDOT’s Project Manager, ______________________________. Payments shall not be withheld unreasonably.
When deemed appropriate by the NYSDOT, CONSULTANT may be paid in progress payments based on allowable costs incurred during the period in accordance with this Article established by the Project Manager and the CONSULTANT, in the Task Order.

The CONSULTANT shall maintain and update once each month the Project Schedule contained in SCHEDULE A if changes have taken place or are anticipated, hereto.

The CONSULTANT will not include any provisions in their subcontracts that would circumvent the intent of 49 CFR 26.29 to require the CONSULTANT to make partial payments to subcontractors and subconsultants within ten (10) days after receipt of payment from the NYSDOT.

C. FINAL PAYMENT.
Section 179-f of the State Finance Law requires the NYSDOT to make final payment within thirty (30) calendar days after receipt of the final invoice which is properly prepared and submitted. 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 NYSDOT.

The acceptance by the CONSULTANT of the final payment shall operate as and shall be a release to the NYSDOT 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.

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 NYSDOT, Federal Highway Administration, or any authorized representatives of the Federal Government and copies thereof shall be furnished if requested.

D. PAYMENT PROCESS.
Billing invoices submitted to the NYSDOT by the CONSULTANT shall be complete, accurate, and contain all information and supporting documentation required by the Contract, the NYSDOT 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 must enroll in the State Comptroller’s ePayments system to authorize electronic payments and 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. Authorization instructions are provided on the State Comptroller’s website at: www.osc.state.ny.us/vendors/epayments.htm. For assistance, email ePayments@osc.state.ny.us.

ARTICLE 6. EXTRA WORK.
A. If the CONSULTANT believes that any work is or may be beyond the scope of the Task Order, or that additional work is necessary on an assignment, the CONSULTANT shall notify the NYSDOT, in writing, of this fact prior to beginning of the work. The notification shall include all information required by the NYSDOT. The NYSDOT 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 NYSDOT shall be under no obligation to reimburse the CONSULTANT for any extra or additional work performed without the prescribed notification and authorization. The NYSDOT will not allow fixed fee for any extra work undertaken without prescribed notification and authorization. In the event that the NYSDOT determines that such work does constitute extra work, the NYSDOT 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 NYSDOT to the CONSULTANT for execution after approvals have been obtained from the NYS Attorney General and the NYS Office of the State Comptroller 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 NYSDOT all assistance required by the NYSDOT. Work which the CONSULTANT is obligated to perform in accordance with ARTICLE 5(c) hereof shall be performed without cost to the NYSDOT. 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 NYSDOT’s directions shall be exercised by the issuance of a separate Agreement, if necessary.

ARTICLE 7. 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 NYSDOT may in certain circumstances, provide compensation for such work.

B. Neither the NYSDOT’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 NYSDOT in accordance with applicable law for all damages to the NYSDOT 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 NYSDOT 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 act 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 ventures associated for the purposes of undertaking this AGREEMENT shall be jointly and severally liable to third parties, including but not limited to the NYSDOT, 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 8. CONSULTANT LIABILITY.**

The CONSULTANT shall be responsible for all damage to life and property due to negligent acts, errors or omissions of the CONSULTANT, its subcontractors, agents or employees, in the performance of its service under this AGREEMENT. Further, it is expressly understood that the CONSULTANT shall indemnify and save harmless the DEPARTMENT from claims, suits, actions, damages and costs of every name and description, resulting from the negligent performance of the services of the CONSULTANT under this AGREEMENT, and such indemnity shall not be limited by reasons of enumeration of any insurance coverage herein provided. Negligent performance of service, within the meaning of this Article, shall include, in addition to negligence founded upon tort, negligence based upon the CONSULTANT's failure to meet professional standards and resulting in obvious or patent errors in the progression of his work. Nothing in this Article or in this AGREEMENT shall create or give to third parties any claim or right of action against the CONSULTANT or the DEPARTMENT beyond such as may legally exist irrespective of this Article or this AGREEMENT.

**ARTICLE 9. 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 satisfactory completion of all work under the contract, 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-) 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. If policies are changed or canceled, the CONSULTANT shall inform the NYSDOT immediately. The NYSDOT will determine whether to issue an order to the CONSULTANT to stop work.

**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 Paragraph B, Insurance Requirements, below. General liability 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. Insurance policies that remove or restrict blanket contractual liability located in the “insured contract” definition (as stated in Section V, Number 9, Item f in the ISO CGL policy) or that remove or modify the “insured contract”
exception to the employers liability exclusion so as to limit coverage for claims that arise out of contract work, or that do not cover the additional insured for claims involving injury to employees of the named insured or subcontractors, are not acceptable. Policy forms must be provided to the Department upon request.

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. CONSULTANT is strongly encouraged to transmit certificates and other materials concerning insurance coverage, referencing the Contract Number and the name of the CONSULTANT in the Subject Line, by email to: Insur.consult.contr@dot.ny.gov

Certificates may be mailed to:

New York State Department of Transportation  
Contract Management Bureau  
50 Wolf Road, Sixth Floor  
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 ten (10) days’ prior written notice to the Department by Certified Mail, Return Receipt Requested at the address stated above. In addition, if required by the Department, the CONSULTANT shall deliver to the Department within ten (10) work 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 a form satisfactory to the Department. The ACORD 25 Certificate must be accompanied by an ACORD 855 “New York Construction Addendum” completed to indicate information about the liability insurance.
   b. Be signed and dated by an authorized representative of the insurance carrier or producer.
   c. Disclose any deductible, self-insured retention, aggregate limit.
   d. Refer to this Contract by number on the face of the certificate.

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:

   a. 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
   b. May withhold further contract payments in accordance with Partial Payments, Section §109-04 of the Standard Specifications, or
   c. 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(s) that provides
equivalent coverage.

5. *Primary Coverage.* The liability and protective liability insurance policies shall
provide primary and non-contributory coverage 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 ten (10) calendar 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

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, the CONSULTANT or third-party-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-) or better. 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.

10. **Subconsultant’s Liability Insurance.** In the event that any portion of the work described in this contract is performed by an approved subconsultant, the insurance requirements of this Article shall be incorporated into the subcontract agreement. Subconsultant insurance requirements shall include the requirements for Workers’ Compensation, Commercial General Liability, and, if applicable, Commercial Auto and/or Professional Liability. Excess or umbrella insurance is not required for subconsultants. CONSULTANT shall require that Certificates of Insurance, meeting the requirements of the Department are provided to the Department documenting the insurance coverage for each and every subconsultants employed by them to do work under this contract.

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, the 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.** The 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:
   a. Coverage for contractual liability assumed by the CONSULTANT insured under an insured contract (including the tort liability of another assumed in a business contract).
   b. 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, or any CONSULTANT inspecting engineer or inspector working for or on the project, and their agents or employees” 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.
c. Products-Completed Operations Coverage, as provided in the General Liability Policy, or in certain instances through ISO form CG 26 11 09 99 or suitable equivalent.

d. Where contract work will be performed by unregistered off-road equipment, CONSULTANT shall provide documentation of a blanket Pollution Liability policy, or an endorsement to cover short-term pollution events, ISO form CG 04 33 10 01 or equivalent.

e. Coverage for claims for bodily injury asserted by an employee of an additional insured and any Employer Liability Exclusion which may otherwise operate to exclude such coverage shall be voided in this respect.

f. Explosion Collapse and Underground Hazards coverage (“XCU”) (for contracts that call for the performance of excavating, underground work, and/or the use of blasting equipment).

3. **Special Protective and Highway Liability Policy.** *(applicable to any project where CONSULTANT is required to conduct field work where CONSULTANT controls the field location for the work).* The CONSULTANT shall maintain, separate and apart from its umbrella policy, a policy issued to and covering the liability of the People of the State of New York, The State of New York, the Commissioner of Transportation, all employees of the 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, against damages that the insureds may be held legally liable to pay for property damage, personal injuries, or death that is caused by any occurrence that takes place within any location where work is to be or is being performed by CONSULTANT, including at the location of any of the work. This should be ISO form CG 00 14 12 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 per occurrence and at least $2,000,000 for each aggregate limit.

4. **Commercial Automobile Insurance including liability and required coverage for New York.** *(applicable to any project where automobiles or other vehicles will be employed to complete the work).* In the event that automobiles are used in connection with CONSULTANT’S business or operations with the Department, the 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 may 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 each accident.

5. **Umbrella or Excess Liability Insurance.** The CONSULTANT shall maintain an occurrence form umbrella liability policy or policies insuring against liability arising from premises (including loss of use thereof), operations, independent Consultants, products-completed operations, personal injury and advertising injury, and 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 or arising from automobile liability as described above. Such coverage shall be written on an ISO occurrence form CU 00 01 12 07 or a policy form providing equivalent coverage. In the event that umbrella coverage is unavailable,
equivalent excess coverage may be substituted. The minimum required limits for the umbrella/excess coverage shall be sufficient to provide a total of not less than $5,000,000 per occurrence/aggregate.

6. **Consultant’s Risks.** *(applicable to all contracts)*. 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.

7. **Professional Liability/ Errors and Omissions.** *(applicable to professional services requiring the signature, stamp or certification of a licensed professional, including, without limitation, erection plans, demolition plans, containment plans, coffer dams, and temporary sheeting.)* The CONSULTANT shall maintain at its own expense or shall require to be maintained, such insurance as is customary to compensate the Department for any claims or losses that occur because of CONSULTANT’S errors, omissions, malpractice or breach of professional obligations. Such policy or policies may be written on a claims-made form so long as coverage is maintained to be in effect to cover claims arising from the performance of services under this contract. Said coverage may be subject to a deductible or self-insured retention level of no more than $250,000, subject to approval by the Department, such approval not to be unreasonably withheld, except that it is also agreed that the Department may withhold payment for services rendered under this contract in the event, and to the extent of any deductible in the event that a claim is asserted. Such coverage shall be written on a claims-made basis (or a policy form providing equivalent coverage) in an amount of no less than $1,000,000 per claim and $1,000,000 in the aggregate.

**ARTICLE 10. DISPOSITION OF DATA.**

All technical data in regard to the PROJECT existing in the office of the NYSDOT 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.

At the time of completion of the work, the CONSULTANT shall make available to the NYSDOT, all documents and data pertaining to the work or to the PROJECT which materials at all times shall be the property of the NYSDOT. It is agreed that the CONSULTANT may maintain copies of all documents and data. 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 NYSDOT the aforementioned data and material.

**ARTICLE 11. 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 12. 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 NYSDOT’S designee. Neither shall the CONSULTANT disclose information deemed confidential by the NYSDOT 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 NYSDOT. 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 13. 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 or Task Order. 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 NYSDOT of any of its rights herein.

The Department has determined that a benefit to the Department will be derived by the timely completion of the Task Order for appraisals on capital project acquisitions. Therefore, the CONSULTANT will be awarded incentive payments of $100 per day up to five (5) business days upon acceptance of the completed Task Order assignment prior to the original submission date stated in each Task Order. Late submission of the Task Order assignment or submission of an assignment which is not acceptable will result in a disincentive assessment of 1% of the entire Task Order fee per day with no limitation, which will be deducted from money due the CONSULTANT.

ARTICLE 14. 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 §365 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 pleadings 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 USC §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 15. TERMINATION.
The NYSDOT 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 NYSDOT 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 NYSDOT, 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 NYSDOT.

C. The NYSDOT 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 NYSDOT may exercise its termination right by providing written notification to the CONSULTANT in accordance with the written notification terms of the AGREEMENT.

ARTICLE 16. 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 NYSDOT 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 NYSDOT 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 NYSDOT for any damages it may sustain by reason thereof. Upon the delivery of all such data to the NYSDOT, the NYSDOT 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 17. 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 NYSDOT 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 NYSDOT, including but not limited to Worker's Compensation coverage, Unemployment Insurance benefits, Social Security coverage or Retirement membership or credit.

ARTICLE 18. 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 NYSDOT.

The CONSULTANT may arrange for a portion(s) of its responsibilities under this AGREEMENT to be subcontracted to qualified, responsible subconsultants/subcontractors, subject to approval of the NYSDOT. If the CONSULTANT determines to subcontract a portion of the services, the subconsultants/subcontractors must be clearly identified and the nature and extent of its involvement in and/or proposed performance under this AGREEMENT must be fully explained by the CONSULTANT to the NYSDOT. As part of this explanation, the subconsultant/subcontractor must submit to the NYSDOT a completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form, as required by the CONSULTANT prior to execution of this AGREEMENT. The CONSULTANT retains ultimate responsibility for all services performed under this AGREEMENT.

The CONSULTANT agrees to obtain the prior written agreement of the NYSDOT prior to subcontracting its services; STATE agrees not to unreasonably withhold its consent.

All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of this AGREEMENT including, but not limited to, the body of this AGREEMENT, Appendix A – Standard Clauses for New York State Contracts and the advertisement for proposals. Unless waived in writing by the NYSDOT, all subcontracts between the CONSULTANT and subconsultants/subcontractors shall expressly name the NYSDOT, through the Department of Transportation, as the sole intended third party beneficiary of such subcontract. The NYSDOT reserves the right to review and approve or reject any subcontract, as well as any amendment to said subcontract(s), and this right shall not make the NYSDOT a party to any subcontract or create any right, claim, or interest in the subconsultant/subcontractor or proposed subconsultant/subcontractor against the NYSDOT.

The NYSDOT reserves the right, at any time during the term of the AGREEMENT, to verify that the written subcontract between the CONSULTANT and subconsultants/subcontractors is compliant with all provisions of this Section and any subcontract provisions contained in this AGREEMENT.

The CONSULTANT shall give the NYSDOT immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a subconsultant/subcontractor or which may affect the performance of the CONSULTANT’s duties under the AGREEMENT. Any subcontract shall not relieve the CONSULTANT in any way of any responsibility, duty and/or obligation of the AGREEMENT.

If at any time during performance under this AGREEMENT total compensation to a subconsultant/subcontractor exceeds or is expected to exceed $100,000, that
subconsultant/subcontractor shall be required to submit and certify a Vendor Responsibility Questionnaire.

ARTICLE 19. COVENANT AGAINST CONTINGENCY 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 NYSDOT 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 20. ASSIGNMENT.
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 NYSDOT.

If this provision of the law be violated, the NYSDOT shall revoke and annul the AGREEMENT and the NYSDOT 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.

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):

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

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

C. does not have a proposed debarment pending; and

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

ARTICLE 22. CERTIFICATION FOR FEDERAL-AID CONTRACTS.
The prospective participant certifies, by signing this AGREEMENT to the best of his or her knowledge and belief, that:
A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriate 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 23. 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. General Responsibility. The CONSULTANT shall, at all times during the AGREEMENT, remain responsible. The CONSULTANT agrees, if requested by the Commissioner of NYSDOT 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. Suspension of Work (for Non-Responsibility). The Commissioner of NYSDOT (or his or her designee), in his or her sole discretion, reserves the right to suspend any or all activities under this AGREEMENT 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 shall comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of NYSDOT (or his or her designee) issues a written notice authorizing the resumption of performance under the AGREEMENT.

C. Termination (for Non-Responsibility). Upon written notice to the CONSULTANT, and a reasonable opportunity to be heard with appropriate NYSDOT or staff, the AGREEMENT may be terminated by Commissioner of NYSDOT (or his or her designee) at the
CONSULTANT’S expense where the CONSULTANT is determined by the Commissioner of NYSDOT (or his or her designee) to be non-responsible. In such event, the Commissioner of NYSDOT (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 24. 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. Exhibit A) and submit copies to the Office of the State Comptroller, the Department of Civil Service, and the Department of Transportation on or before May 15th 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: consultantdisclosure@dot.ny.gov.

ARTICLE 25. 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 (hereinafer “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 26. PAY EQUITY BY STATE CONSULTANTS/CONTRACTORS.
In accordance with Executive Order 162, issued on January 9, 2017, the consultant shall provide detailed workforce utilization reports of the CONSULTANT and each subconsultant – or subcontractor – that include, in addition to equal employment opportunity information, the job title and salary of each employee directly performing work on a state contract.

If the CONSULTANT cannot identify the individuals working directly on a State contract, then the CONSULTANT and each subconsultant shall provide such information of each employee in the CONSULTANT’S entire workforce. Such information shall be reported to the Department at quarterly intervals.
The reporting period shall be on a quarterly basis (January 1 through March 31, April 1 through June 30, July 1 through September 30 and October 1 through December 31). The reporting requirement shall begin on the effective date of the contract and continue for the duration of the contract term. Reports shall be submitted within 15 calendar days from the end of each reporting period. This provision is in effect for the quarterly reporting period ending December 31, 2017, or the quarterly reporting period that is immediately subsequent to the effective date of the contract, whichever date is later.

Detailed workforce utilization reports, as required above, shall be submitted in such form and in such manner as shall be required by the Department and as in accordance with Consultant Instruction 17-02.

The CONSULTANT shall include this provision in every subcontract so that such provisions shall be binding upon each subconsultant, if the subcontract exceeds $25,000.

ARTICLE 27. CONFLICTS OF INTEREST.
The CONSULTANT has provided a form (Vendor Assurance of No Conflict of Interest or Detrimental Effect), signed by an authorized executive or legal representative attesting that the CONSULTANT’s performance of the services does not and will not create a conflict of interest with, nor position the CONSULTANT to breach any other contract currently in force with the State of New York, that the CONSULTANT will not act in any manner that is detrimental to any NYSDOT project on which the CONSULTANT is rendering services.

The CONSULTANT hereby reaffirms the attestations made in its proposal and covenants and represents that there is and shall be no actual or potential conflict of interest that could prevent the CONSULTANT's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this AGREEMENT. The CONTRACTOR shall have a duty to notify the NYSDOT immediately of any actual or potential conflicts of interest.

In conjunction with any subcontract under this AGREEMENT, the CONSULTANT shall obtain and deliver to the NYSDOT, prior to entering into a subcontract, a Vendor Assurance of No Conflict of Interest or Detrimental Effect form, signed by an authorized executive or legal representative of the subconsultant/subcontractor. The CONSULTANT shall also require in any subcontracting agreement that the subconsultant/subcontractor, in conjunction with any further subcontracting agreement, obtain and deliver to the NYSDOT a signed and completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form for each of its subconsultants/subcontractors prior to entering into a subcontract.

The NYSDOT and the CONSULTANT recognize that conflicts may occur in the future because the CONSULTANT may have existing, or establish new, relationships. The NYSDOT will review the nature of any relationships and reserves the right to terminate this AGREEMENT for any reason, or for cause, if, in the judgment of the NYSDOT, a real or potential conflict of interest cannot be cured.

ARTICLE 28. ETHICS REQUIREMENTS.
The CONSULTANT specifically agrees that this AGREEMENT may be canceled or terminated by the NYSDOT if any work under this AGREEMENT conflicts with the Ethics Provisions of the Uniform Standards of Professional Appraisal Practice (USPAP) or the provisions of Section
74 of the Public Officers Law, as amended, establishing a Code of Ethics for State Officers and employees. The work performed shall be in conformance with “UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE” set forth in 19 NYCRR, Part 1106; the work performed shall also be in conformance with “UNIFORM APPRAISAL STANDARDS FOR FEDERAL LAND ACQUISITIONS” set forth in the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, P.L. 91-646, as amended, 42 U.S.C. Section 4601.

The CONSULTANT and its Subconsultants/Subcontractors shall not engage any person who is, or has been at any time, in the employ of the NYSDOT to perform services in violation of the provisions of the New York Public Officers Law, other laws applicable to the service of NYSDOT employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Joint Commission on Public Ethics, or its predecessors (collectively, the “Ethics Requirements”). The CONSULTANT certifies that all its employees and those of its Subconsultants/Subcontractors who are former employees of the NYSDOT and who are assigned to perform services under this Contract shall be assigned in accordance with all Ethics Requirements. During the Term, no person who is employed by the CONSULTANT or its Subconsultants/Subcontractors and who is disqualified from providing services under this Contract pursuant to any Ethics Requirements may share in any net revenues of the CONSULTANT or its Subconsultants/Subcontractors derived from this Contract. The CONSULTANT shall identify and provide the NYSDOT with notice of those employees of the CONSULTANT and its Subconsultants/Subcontractors who are former employees of the NYSDOT that will be assigned to perform services under this Contract, and make sure that such employees comply with all applicable laws and prohibitions. The NYSDOT may request that the CONSULTANT provide it with whatever information the NYSDOT deems appropriate about each such person’s engagement, work cooperatively with the NYSDOT to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by the NYSDOT, instruct any such person to seek the opinion of the New York State Joint Commission on Public Ethics. The NYSDOT shall have the right to withdraw or withhold approval of any Subconsultant/Subcontractor if utilizing such Subconsultant/Subcontractor for any work performed hereunder would conflict with any of the Ethics Requirements. The NYSDOT shall have the right to terminate this Contract at any time if any work performed hereunder conflicts with any of the Ethics Requirements.

ARTICLE 29. NOTICES.
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: Matt Bromirski, Contract #C037878
Title: Deputy Assistant Commissioner, Contracts
Address: NYSDOT Contract Management Bur., 6th Fl., 50 Wolf Road, Albany, NY 12232
Telephone Number: 518-457-2600
Any such notice 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.

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 30. 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, APPENDIX C, APPENDIX D and APPENDIX E, SCHEDULE A, Scope of Services (including EXHIBITS), SCHEDULE B, Project Budget (including EXHIBITS), the NYSDOT’s Request for Proposals (RFP; dated ____ ) incorporated by reference, and the CONSULTANT’s Proposal (dated ____ ) incorporated by reference.

ARTICLE 31. 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, Scope of Services (including Exhibits);
5. SCHEDULE B, Project Budget (including Exhibits);
6. The NYSDOT’s Request for Proposals; and
7. The CONSULTANT’s Proposal.
IN WITNESS WHEREOF, this Contract No. _______________ has been executed by the STATE, acting by and through the Commissioner of Transportation, and the CONSULTANT, by signature below, has duly executed this AGREEMENT effective the day and year first above written.

In addition to the acceptance of this AGREEMENT, the Department 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

____________________________________ ________________________________
CONTRACT MANAGEMENT DEPARTMENT OF TRANSPORTATION

DATE: _______________ DATE: _______________

Consultant Certifications: I certify that all 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 for on the “Vendor Responsibility Questionnaire” submitted on that date.

In addition to the acceptance of this AGREEMENT, I certify that all information provided to the NYSDOT with respect to the requirements contained in State Finance Law Sections 139j & 139k are complete, true and accurate.

By__________________________________ Date:  ______________________________

---Appraisal Services for NYSDOT---

APPROVALS

NYS OFFICE OF THE ATTORNEY THOMAS P. DINAPOLI
GENERAL NYS OFFICE OF THE STATE COMPTROLLER

By__________________________________ By______________________________

Date: ______________________________ Date: ___________________________

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Acknowledgement for Contract #________

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), 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, such 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 State 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 not be 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. (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). 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. (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). 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: opa@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 January 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.
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 Manual (available through NYSDOT’s web site at: http://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: http://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/Sponsors 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 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.).

FEDERAL SINGLE AUDIT REQUIREMENTS

Non-Federal entities that expend $750,000 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 the amount above 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, 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 (CFDA), 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.

a 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.
b http://www.cfda.gov/
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:

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

**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.

(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.

**CARGO PREFERENCE ACT REQUIREMENTS – U.S. FLAG VESSELS**

In accordance with 46 CFR 381, the contractor agrees:

- To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
- To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b) (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
- To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.
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, NYS Executive Law Article 15, 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, by Executive Order 162, issued on January 9, 2017 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 include these provisions of Subdivisions (a) through (c) of this subsection 4 and the paragraph appearing immediately below which provides for relevant provisions of the Human Rights Law, in every employment opportunity, as required by Federal Executive Order 11246, Federal Executive Order 11375, and NYS Executive, NYS Executive Law Article 15, 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, by Executive Order 162, issued on January 9, 2017 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.

   (d) The CONSULTANT and all their sub-consultants and/or subcontractors shall comply with Executive Order 162, issued on January 9, 2017, requiring quarterly workforce utilization reports, detailing reports of the Consultant and all of their subconsultants, which includes in addition to equal opportunity information, the job and salary of each employee directly performing work on a State contract.

2. EQUAL EMPLOYMENT OPPORTUNITY POLICY

   A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the contract.

   B. In performing the contract, the Consultant shall:

      1. Ensure that each Consultant and subconsultant – or subcontractor – performing work on the contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

      2. The Consultant shall submit an EEO policy statement to the New York State Department of Transportation (NYSDOT) after the date of the notice by the NYSDOT to award the contract to the Consultant as determined by the Department.

      3. If the Consultant or any of its subconsultants, does not have an existing EEO policy statement, the NYSDOT may require the Consultant or subconsultant to adopt a model statement consistent with item B.4.a through d of this section.

      4. The Consultant’s EEO policy statement shall include the following language:

         a. The Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its workforce.

         b. The Consultant shall state in all solicitations or advertisements for employees that in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, natural origin, sex, age, disability or marital status.

         c. The Consultant 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 the implementation of the Consultant’s obligation herein.

         d. The Consultant will include provisions of Subdivisions (a) through (c) of this subsection 4 and the paragraph appearing immediately below which provides for relevant provisions of the Human Rights Law, in every
The Consultant shall comply with the provisions of the Human Rights Law, and all other State and Federal statutory and constitutional non-discrimination provisions. The Consultant and its subconsultants shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction or prior arrest.

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 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, notice thereof has been given to 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 Article II.

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 July 2017
State Consultant Services
Contractor’s Annual Employment Report

Report Period: April 1, to March 31,

Contracting State Agency Name: Transportation
Agency Code: DOT01
Contract Number:
Contract Term to
Contractor Name:
Contractor Address:
Description of Services Being Provided: Appraisal Services for NYSDOT

Scope of Contract (Choose one that best fits):
Analysis □ Evaluation □ Research □ Training □
Data Processing □ Computer Programming □ Other IT consulting □
Engineering □ Architect Services □ Surveying □ Environmental Services □
Health Services □ Mental Health Services □
Accounting □ Auditing □ Paralegal □ Legal □ Other Consulting □

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Total this page 0 0 $ 0.00

Grand Total

Name of person who prepared this report:
Preparer's Signature:__________________________________________
Title:_______________________________________________________
Phone #:_____________________________________________________
Date Prepared:____/____/____

Use additional pages if necessary)
ATTACHMENT 2: CONSULTANT INFORMATION AND CERTIFICATIONS

(Please submit this with your Part II: Cost Proposal)

CONTRACT NUMBERS: C037878
PROJECT TITLE: Appraisal Services for NYSDOT

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 NYSDOT Consultant Identification Number (CIN): ________________

• 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 offerer and also who may be
  contacted during the period of proposal evaluation:

Preparer’s Name/Title:  _____________________________________________________

Address:  ________________________________________________________________

Telephone: (_____) _____ - __________  FAX: (_____) _____ - __________

Other Authorized Individual(s):

Name/Title:_______________________________________________________________

Address:________________________________________________________________

Telephone: (_____) _____ - __________  FAX: (_____) _____ - ______
II. PROPOSER CERTIFICATIONS

By signing below, I, _____________________________, authorized individual of _____________________________ make the following certifications regarding the subject proposal:

- **365-Day Offer**: This proposal is a firm offer for a 365-day period from the date of submission.
- **Vendor Responsibility**: If selected for contract award, the firm will complete and submit the required Vendor Responsibility Questionnaire via the OSC VendRep portal within 10 days of notification of designation.
  
  (http://www.osc.state.ny.us/vendrep/forms_vendor.htm)

- **ST-220**: If selected for contract award greater than $100,000, the firm will complete and submit the required Forms ST-220-TD and 220-CA (Contractor Certifications) prior to negotiation with NYSDOT. You should make yourself familiar with these forms by visiting the following Web sites:


- No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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

- As of January 1, 2019, bidders on New York State procurements subject to competitive bidding are required to submit a Certification on Sexual Harassment in bids. By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace, and provides annual sexual harassment prevention training to all its employees. Such policy shall, at a minimum, meet the requirements of Section 201-g of the Labor Law.

- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, subgrants and
contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.

Signature: __________________________________________

III. ACCEPTANCE OF CONTRACT

By signing below, I, ________________________________, authorized individual (Name) of ________________________________ (Firm) hereby certify that I have read and accept all terms and conditions 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: FORM AOR

ACKNOWLEDGMENT OF RECEIPT OF
RFP, MODIFICATIONS AND RESPONSES TO QUESTIONS

<table>
<thead>
<tr>
<th>NAME OF PROPOSER</th>
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We hereby acknowledge receipt of the Appraisal Services Term Agreements for NYSDOT (contract #C037878) Request for Proposals, dated October 10, 2019 and subsequent responses to questions and Modifications issued by the Department, as listed below.

Add additional lines in tables below, if needed.

<table>
<thead>
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<th>Date issued by Department:</th>
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ATTACHMENT 4: PROCUREMENT LOBBYING LAW COMPLIANCE

a. **Required Forms:** The consultant shall sign and e-mail/fax the following forms. These forms are part of and due with the consultant’s proposal.

A. Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b) [https://www.dot.ny.gov/main/business-center/consultants/consultants-repository/offers_affirmation_and_agreement_form.pdf](https://www.dot.ny.gov/main/business-center/consultants/consultants-repository/offers_affirmation_and_agreement_form.pdf)


2. **NYS DOT Guidelines and Procedures**
Under the requirements of the State Procurement Act all communications regarding advertised projects are to be channeled through Contract Management (*Designated Contacts). Until a designation is made, communication with any other NYS DOT employee concerning this project that is determined to be an attempt to influence the procurement may result in disqualification.


3. **Summary of the policy and prohibitions regarding permissible contacts:**

   i. **Contacts prior to designation:**

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

   1. The Contract Management Designation Contract Management Specialist
   2. The Contract Management Designation Analyst Supervisor
   3. The Contract Management Civil Rights Unit Supervisor
   4. The Contract Management Assistant Directors
   5. The Contract Management Director

   These are some communications exempted from this restriction:

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

   If any other NYS DOT 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 NYS DOT 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.

   ii. **Contacts after designation:**

   NYS DOT identifies its primary negotiation contacts. The designated contacts include:

   1. The Contract Management Designation Contract Management Specialist
   2. The Contract Management Designation Analyst Supervisor
3. The Contract Management Civil Rights Unit Supervisor
4. The Contract Management Assistant Directors
5. The Contract Management Director
6. The Consultant Management Bureau consultant job manager
7. 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.

c) 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.

d) 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.

A. Rules and regulations and more information on this law, please visit:

https://online.ogs.ny.gov/legal/lobbyinglawfaq/default.aspx (Advisory Council FAQs)

For more information, go to NYSDOT’s Web Site at http://www.dot.ny.gov or contact:

Micheleen Gregware
NYSDOT Contract Management
50 Wolf Road, 6th Floor
Albany, New York 12232
E-mail: Micheleen.Gregware@dot.ny.gov
Tele: (518) 485-8620
ATTACHMENT 5: CONSULTANT DISCLOSURE LEGISLATION FORMS A & B

FORM A

State Consultant Services – Contractor’s Planned Employment
From Contract Start Date Through the End of The Contract Term

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<th>Number of hours to be worked</th>
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Grand Total

Name of person who prepared this report:
Title: 
Preparer’s Signature: 
Date Prepared: / / 

(Use additional pages, if necessary)

Page of
State Consultant Services  
Contractor’s Annual Employment Report  
Report Period: April 1, to March 31,

Contracting State Agency Name: NYS Dept. of Transportation  
Agency Code: DOT01
Contract Number: C037878
Contract Term: July 1, 2020 to June 30, 2023
Contractor Name:  
Contractor Address:  
Description of Services Being Provided: Appraisal Services for NYSDOT

Scope of Contract (Choose one that best fits):
Analysis □  Evaluation □  Research □  Training □  
Data Processing □  Computer Programming □  Other IT consulting □  
Engineering □  Architect Services □  Surveying □  Environmental Services □  
Health Services □  Mental Health Services □  
Accounting □  Auditing □  Paralegal □  Legal □  Other Consulting □

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Grand Total

Name of person who prepared this report: 
Preparer’s Signature: ________________________________
Title: ________________________________  Phone #: ________________________________
Date Prepared:  / /

Use additional pages if necessary)
ATTACHMENT 6: NON-COLLUSIVE BIDDING CERTIFICATION

NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY
SECTION 139-D OF THE STATE FINANCE LAW

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 THERE TO 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.
NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY
SECTION 139-D OF THE STATE FINANCE LAW

IF BIDDER(S) (ARE) A PARTNERSHIP, COMPLETE THE FOLLOWING:
NAMES OF PARTNERS OR PRINCIPALS    LEGAL RESIDENCE

_____________________________________________________________  ___________________________________________

_____________________________________________________________  ___________________________________________

_____________________________________________________________  ___________________________________________

_____________________________________________________________  ___________________________________________

IF BIDDER(S) (ARE) A CORPORATION, COMPLETE THE FOLLOWING:
NAME    LEGAL RESIDENCE

President:  ________________________________________________________

Secretary:  ________________________________________________________

Treasurer:  ________________________________________________________

President:  ________________________________________________________

Secretary:  ________________________________________________________
 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.

Legal name of person, firm or corporation

Legal name of person, firm or corporation

By

Name

Name

Title

Title

Address: ______________________________________________________________________

____________________________________________________________________________

Street

____________________________________________________________________________

City State

____________________________________________________________________________

City State
ATTACHMENT 7: VENDOR ASSURANCE OF NO CONFLICT OR DETRIMENTAL EFFECT

The Firm offering to provide services pursuant to this [RFP/Contract], as a contractor, joint venture contractor, subcontractor, or consultant, attests that its performance of the services outlined in this [RFP/Contract] does not and will not create a conflict of interest with nor position the Firm to breach any other contract currently in force with the State of New York.

Furthermore, the Firm attests that it will not act in any manner that is detrimental to any State project on which the Firm is rendering services. Specifically, the Firm attests that:

1. The fulfillment of obligations by the Firm, as proposed in the response, does not violate any existing contracts or agreements between the Firm and the State;

2. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Firm has regarding any existing contracts or agreements between the Firm and the State;

3. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not compromise the Firm’s ability to carry out its obligations under any existing contracts between the Firm and the State;

4. The fulfillment of any other contractual obligations that the Firm has with the State will not affect or influence its ability to perform under any contract with the State resulting from this RFP;

5. During the negotiation and execution of any contract resulting from this RFP, the Firm will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;

6. In fulfilling obligations under each of its State contracts, including any contract which results from this RFP, the Firm will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State, as a whole, including, but not limited to, any action or decision to divert resources from one State project to another;

7. No former officer or employee of the State who is now employed by the Firm, nor any former officer or employee of the Firm who is now employed by the State, has played a role regarding the administration of this contract procurement in a manner that may violate section 73(8)(a) of the State Ethics Law; and

8. The Firm has not and shall not offer to any employee, member or director of the State any gift, whether in the form of money, service, loan, travel, entertainment,
hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

Firms responding to this [RFP/Contract] should note that the State recognizes that conflicts may occur in the future because a Firm may have existing or new relationships. The State will review the nature of any such new relationship and reserves the right to terminate the contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

Name, Title:

Signature: Date:

This form must be signed by an authorized executive or legal representative.
ATTACHMENT 8: EXECUTIVE ORDER 177 CERTIFICATION

This Certification must be completed and returned with the executed contract documents.

Executive Order 177 Certification

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Proposer/Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

Vendor:
_________________________________________________________________________________

By [signature]:
_________________________________________________________________________________

Name [print]:
_________________________________________________________________________________

Title: _____________________________________________________________________________

Date: __________________________, 20____
ATTACHMENT 9: FORM M/WBE EEO MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT – Not Applicable

(Submit original with Executed Contract Signature pages)

Contract Number: _____________________
Contract Description: ___________________________________________________________
_________________________________________________________________________________

M/WBE AND EEO POLICY STATEMENT
I, _________________________________, of (awardee/consultant) ___________________________ agree to adopt the following policies with respect to the project being developed or services rendered.

MWBE
This organization will, and will cause its contractors and subcontractors to, take good faith actions to achieve the M/WBE contract participation goals set by the State for that area in which the State-funded project is located, by taking the following steps:
1. Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
2. Request a list of State-certified M/WBEs from NYSDOT and solicit bids from them directly.
3. Ensure that plans, specifications, requests for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
4. Where feasible, divide the work into smaller portions to enhance M/WBE participation and encourage the formation of joint ventures and other partnerships among M/WBE contractors.
5. Document and maintain records of bid solicitation, including those to M/WBEs, and the results thereof. The Consultant will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
6. Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and if legally permissible, that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

EEO
(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its efforts to employ and utilize minority group members and women in its work force on State contracts.
(b) This organization shall state in all solicitations or advertisements for employees in the performance of the State contract, that all qualified applicants will be afforded equal opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
(c) At the request of the contracting agency, this organization shall request that each employment agency, labor union, or authorized 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 this organization’s obligations herein.
(d) The Consultant shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Consultant and subconsultants/subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or
domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subconsultant/subcontractor as to work in connection with the State Contract.

Agreed to this ________ day of _______________________, 20____

By _____________________________________________________

Print:________________________________________Title:________________________________

_______________________________ is designated as the Minority Business Enterprise Liaison
(Printed Name of Designated Liaison)

**Total Committed M/WBE Contract Participation**

_____ percent Minority and Women’s Business Enterprise Participation

_____ percent Minority Business Enterprise Participation

_____ percent Women’s Business Enterprise Participation

__________________________________________________________

(Authorized Representative Signature)

Title: _______________________________________________________________________

Date: _______________________________________________________________________

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ATTACHMENT 10: DBE PARTICIPATION INFORMATION – Not Applicable

In accordance with the Code of Federal Regulations (CFR), Title 49, Part 26, NYSDOT is required to encourage Proposers to utilize DBE firms in procurements that receive federal funds.

Please complete the following table for the prime firm and all subconsultants (consultant team composition): please identify each firm’s legal name, checking if they are a certified DBE by utilizing the NYSUCP DBE Directory, and indicating each firm’s percentage of the total salary for the contract. Please keep in mind that only NYSUCP certified DBEs are eligible to count toward attainment of this federally-funded procurement with a DBE participation goal.

Further, participation by a certified DBE prime consultant will count toward DBE participation goal attainment.

If the combined percentage of total contract value for all proposed, certified DBEs is less than the DBE Participation Goal set for this contract, then the proposing prime firm is required to fill out and submit the Participation Solicitation Log (Attachment 10a), and the Goal Attainment Explanation Letter. Further, prime consultants certified as a DBE who propose to meet the Department’s DBE participation goal via their meaningful participation, are required to fill out and submit the Participation Solicitation Log (Attachment 10a) if their outreach efforts result in proposed DBE subconsultant(s).

Please provide a copy of the firm’s DBE letter from a NYSUCP certifying partner with Part II of your proposal.

Contract#: C037878

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<td>B. Sub-Consultants</td>
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| Total | 100% |
ATTACHMENT 10a: DBE SUBCONSULTANT PARTICIPATION SOLICITATION LOG – *Not Applicable*

(Good Faith Effort Documentation)

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*See Solicitation Log Instructions listed in Attachment 12: Solicitation Log Instructions*
ATTACHMENT 11: M/WBE/SDVOB PARTICIPATION INFORMATION – Not Applicable
# ATTACHMENT 11a: SUBCONSULTANT PARTICIPATION SOLICITATION LOG – *Not Applicable*

(Good Faith Effort Documentation)

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<th>CONTACT PERSON</th>
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<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 (enter work types or CUF)</th>
<th>TYPES AND DATES OF CONTACTS</th>
<th>CONTACT RESULT(S) CODE*</th>
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*See Solicitation Log Instructions listed in Attachment 12: Solicitation Log Instructions*
ATTACHMENT 12: SOLICITATION LOG INSTRUCTIONS
(Good Faith Effort Documentation)

To be deemed responsive to this solicitation, Consultants whose proposed D/M/WBE/SDVOB participation does not meet the established participation goal must document and report their efforts to solicit participation by certified D/M/WBE in this Non-Architecture/Non-Engineering contract. The Solicitation Log is used for this purpose.

PLEASE NOTE: For RFP’s with a DBE goal, only participation by NYSUCP certified DBE prime consultants as well as NYSUCP certified DBE subconsultants may count toward goal attainment. For RFP’s with MBE, WBE goals and/or SDVOB goals, only consultants or subconsultants certified by New York State Empire State Development and/or New York State Office of General Services SDVOB Program may count toward goal attainment.

Guidance concerning Good Faith Efforts in meeting D/M/WBE/SDVOB participation goals is located at the end of this section.

The log is to be filled out and submitted with the proposing firm’s Cost and Administrative Proposal. In order for a proposal to be determined as responsive when the D/M/WBE/SDVOB participation goal is not attained at all or only partially attained, then the proposer must complete all sections of this form and submit a Solicitation Log, along with a Goal Attainment Explanation Letter, documenting the firm’s Good Faith Effort. A separate Solicitation Log must be submitted for each Participation Goal established in the RFP.

*** DBE CERTIFICATION IS A FEDERAL PROGRAM CERTIFICATION. ***
IT IS SEPARATE AND DISTINCT FROM THE NEW YORK STATE MBE & WBE or SDVOB PROGRAMS. PLEASE DO NOT CONFUSE THE TWO. FIRMS WITH QUESTIONS REGARDING THESE PROGRAMS ARE ENCOURAGED TO SUBMIT WRITTEN QUESTIONS

CONTRACT NO: Enter NY State DOT contract number (Example: C012345).

PARTICIPATION GOAL: Enter applicable MBE/WBE/DBE/SDVOB participation goal percentage as stated in the proposal.

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.
MBE/WBE/DBE 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 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 DBE Registry. Commodity type codes are provided for every certified firm listed in the ESD M/WBE Registry.

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 contacts. 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 or M/WBE/SDVOB 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 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 D/M/WBE/SDVOB Participation Goals in Federally-Funded Contracts

The following is a list of types of actions that demonstrate good faith efforts in obtaining D/M/WBE/SDVOB participation. This list is not exclusive or exhaustive. The bidder must show that it took all necessary and reasonable steps to achieve a D/M/WBE/SDVOB goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient D/M/WBE/SDVOB 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/] or the ESD M/WBE Directory -[http://www.esd.ny.gov/MWBE.html]) the interest of all certified D/M/WBEs, or the NYS Office of General Services list of certified SDVOBs at [http://ogs.ny.gov/core/sdvoba.asp], who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the D/M/WBE/SDVOBs to respond to the solicitation. The bidder must determine with certainty if the D/M/WBE/SDVOBs are interested by taking appropriate steps to follow up initial solicitations.

- Selecting portions of the work to be performed by D/M/WBE/SDVOBs in order to increase the likelihood that the D/W/BBE/SDVOB goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate D/M/WBE/SDVOB participation, even when the bidder might otherwise prefer to perform these work items with its own forces.

- Providing interested D/M/WBE/SDVOBs 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 D/M/WBE/SDVOBs – it is the bidder’s responsibility to make a portion of the work available to D/M/WBE/SDVOB subcontractors and suppliers and to select those portions of the work or material needs consistent with the available D/M/WBE/SDVOB subcontractors and suppliers, so as to facilitate D/M/WBE/SDVOB participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of D/M/WBE/SDVOBs 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 D/M/WBE/SDVOBs to perform the work.

- A bidder using good business judgment should consider a number of factors in negotiating with subcontractors, including D/M/WBE/SDVOB subcontractors, and would 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 D/M/WBE/SDVOB is not in itself sufficient reason for failure to meet the contract D/M/WBE/SDVOB 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 D/M/WBE/SDVOBs 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 D/M/WBE/SDVOBs in obtaining bonding, lines of credit, or insurance as required by the recipient or contract.

- Making efforts to assist interested D/M/WBE/SDVOBs in obtaining necessary equipment, supplies, materials or related assistance or services.

- Effectively using the services of available minority/women community organizations; minority/women contractors’ groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of D/M/WBE/SDVOBs.
ATTACHMENT 13: NEW YORK BUSINESS REPORTING – Not Applicable

ATTACHMENT 14: DIVERSITY PRACTICES QUESTIONNAIRE – Not Applicable
ATTACHMENT 15: KEY PERSONNEL RESUME AND REFERENCES

Instructions:
- Complete Attachment 15 for each Key Personnel title identified in the RFP.
- Attachment 15 shall not exceed three pages in length per each Key Personnel proposed.
- Proposer’s may expand the boxes as necessary.
- The term “Client” below refers to the past project owner. “Client” is NOT a Prime Contractor where the proposing firm acted in the capacity as a Subcontractor.

<table>
<thead>
<tr>
<th>Personnel Name and Title:</th>
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<tbody>
<tr>
<td>Title Assigned for this Project:</td>
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<tr>
<td>Firm working for on this Project:</td>
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<tr>
<td>Current Employment Status:</td>
<td>[ ] Employed by Firm identified #3 above [ ] Employed by a different Firm [ ] Unemployed</td>
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<td>Years of Relevant Experience</td>
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<td>Description of Relevant Experience:</td>
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<td>Certifications/Licenses:</td>
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<td>Education:</td>
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<td>Past Project Experience</td>
<td>Complete below for a maximum of five past projects</td>
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<td>Project Description (include contract number where appropriate):</td>
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<td>Client Contact Information (including contact name, phone number, and e-mail address):</td>
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ATTACHMENT 16a: NYS DEPARTMENT OF TRANSPORTATION REGIONAL ZONE MAP
Attachment 17 – Cost Proposal Workbook can be found on-line at: https://www.dot.ny.gov/doing-business/opportunities/consult-opportunities.
ATTACHMENT 18 – GENERAL GUIDELINES FOR PREPARING APPRAISALS FOR NYSDOT

General Guidelines for Preparing Appraisals for NYSDOT

Introduction
One of the major functions and responsibilities of the Department’s Office of Real Estate is to prepare appraisals which meet Federal, State and Department requirements. The foundation of an effective real estate acquisition program is a well-prepared appraisal which meets applicable standards and provides an owner with the compensation to which he/she is legally entitled, and at the same time, is protective of the interests of the taxpayers.

The objective of the Department is to meet these requirements and to present the necessary information in such a form that it is a useful tool for those who depend on the report in the acquisition process. Under the “one-offer” system, the Department must have an appraisal that is reflective of the market as it serves as a basis for negotiations with the property owner.

In addition to acquiring property for its transportation system, the Department may also require appraisals of properties that have been declared surplus to its present and future needs. Accordingly, appraisers may be offered appraisal assignments that reflect “sale” rather than “purchase” transactions.

Purpose of the Appraisal
To meet the requirements outlined above, the Office of Right of Way requires an appraisal of market value, which is defined as:

DEFINITION OF MARKET VALUE: the most probable price which a property should bring in a competitive and open market, under all conditions, requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: 1) buyer and seller are typically motivated; 2) both parties are well informed or well advised and each acting in what he considers his own best interest; 3) a reasonable time is allowed for exposure in the open market; 4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and 5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.

*Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third-party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession, but the dollar amounts of any adjustment should approximate the market’s reaction to the financing or concessions based on the Appraiser’s judgment.

The above definition of Market Value is viewed by the Department as causing the appraiser to conclude essentially the same value as would be concluded in an attempt to arrive at Market Value as defined in USPAP.
The courts in New York State have consistently equated the constitutional requirements of “just compensation” with a finding and source of “market value”. As a result, Office of Right of Way’s appraisals must primarily utilize and rely upon the sales comparison and capitalization approaches to value except in those rare instances of a truly special purpose property. In those instances, the cost approach to value may be relied upon to establish market value. The broad goal of the Office’s activities in this area is to produce a well-documented appraisal which leads conclusively to the best estimate of market value for the acquisition.

**Required Engineering and Related Data**

It is essential that appraisals of partial takings include the value of land and improvements that are to be acquired plus any damages which are caused to the remaining property. Accordingly, the appraiser should review the project’s construction plans, cross-sections, right-of-way maps and any other available data to develop a full understanding of the acquisition and the effects of the proposed construction. It is inappropriate to expect an appraiser to judge whether there is severance damage or special offsetting benefits accruing to a remaining property without anticipating, with a degree of accuracy, what the after situation will be.

Reduction of setback, change of grade, change of physical access, additional travel lanes, highway shoulder widths, drainage ditches, sidewalks, gutters, replacement of landscaping and fencing are some of the considerations that the appraiser must be aware of and required to describe in the appraisal report.

Appraisers are also expected to have a working knowledge of New York’s Eminent Domain Procedures, and what severance damages New York’s Court System has ruled to be compensable and non-compensable (Reference RFP Attachment 21).

**Public Contacts**

The very nature of the appropriation process requires that all parties having any contact with a property owner or tenant must exercise diplomacy and tact in their dealings.

Certain procedures must be followed, and an open and friendly attitude must be exhibited in order for those affected to realize that the State is granting them every courtesy and consideration. All those representing the State – including appraisal consultants – shall conduct themselves with propriety, decorum and mutual rules of respect.

In all cases, the property owner or their designated representative must be offered the opportunity to accompany the appraiser when they inspect the property.

Appointments are to be made and kept. It is expected that an appointment will be made to inspect properties and interview occupants. These appointments are to be kept on time or appropriate notice of cancellation given when circumstances require that unusual course of action.

Appraisers are required to present their identifying documents, including a license and business cards and their letter of assignment of Task Order, at the outset of their first personal contact with owners or tenants.

An above average degree of courtesy applies in all contacts with owners or tenants. Every consideration, concern and patience must be shown in permitting and encouraging an owner to inform the appraiser of the points they deem important about their property.
Common sense dictates that the appraiser is never to make disparaging remarks about an owner’s property, the furniture, or physical surroundings. The appraiser must conduct themselves in a detached, objective manner.

Appraisers are never allowed to discuss values or the extent of possible damages with the owner or tenant at the time during the property’s inspection. At this point in time, the appraiser is solely a collector of facts. Monetary damages can only be determined after the appraisal is completed and reviewed.

Consultant appraisers are generally not familiar with the Department’s acquisition procedures nor have they been engaged to explain project details to property owners. Questions regarding the acquisition process or about the proposed project should be discreetly referred to the R.O.W. Agent/Real Estate Specialist who will be contacting the owner to discuss these matters.

Assembling Data
The appraiser for a specific appraisal assignment or for a project, must develop an initial working plan providing for the assembly of requisite data to avoid either unproductive efforts or the inclusion of non-essential or superfluous material in their appraisal report. When assistance is given to the appraiser by personnel, either working under their supervision or as members of a team, this plan will designate specific duties to be performed by each individual, providing for maximum efficiency and avoid overlapping of work assignments.

1. Appraiser’s Personal Obligation
The appraiser must personally perform and be responsible for certain functions in order to properly certify that they have accomplished the appropriate steps in their analysis and determination of the value. These areas of personal responsibility include, but are not limited to, the following:

a. A personal inspection of the subject property. If structures are taken or damaged, both interior and exterior inspections and photos are necessary.

b. Comparable sales must be inspected to the same degree as subject.

c. Comparable sales must be verified as to selling price by someone who is a party to the conveyance such as grantor, grantee, real estate broker/agent to the transaction or one of their legal representatives. Accordingly, verification by the assessor (or other non-interested party) is not acceptable. Appraiser shall identify with whom the comparable sale has been verified and include this information within the sales sheet.

d. Right of way taking limits are to be visualized on the ground and the effects personally noted by the appraiser of record.

2. Site Inspection
A careful and complete inventory of the property to be appraised and thorough knowledge of the area to be appropriated is an essential requirement of a sound appraisal report. A casual inspection of the premises is not only not in keeping with good appraisal practice, but is quite apparent to a property owner, with probably negative effects at the time when the offer is made.

As part of the appraisal, the property’s size, shape, topography and existing access should be reviewed and considered both before and after the acquisition in the appraisal process. Individual
items of site improvements, especially those affected by the appropriation, are to be individually inventoried and the condition of each specific item noted.

It should also be noted that property owners sometimes have surveys of their property available, which can be of material assistance in producing the required sketches of the whole property. The availability of this survey or sketch can save much effort in those cases where no plan layout of the entire property is available, and a sketch must otherwise be prepared from a deed description or other source. The use of tax maps are also useful to reflect a property’s location, size, access and configuration.

**Building Inspection**
When inspecting structures, special attention is to be directed toward recording items of accrued depreciation; while at the same time, noting the “plus” features of the premises that make a positive contribution to the property’s value.

Photographs should be taken at the time of this inspection, which will clearly show all improvements, especially those in the area of the taking. The photographs should adequately cover the acquisition area and related structures, so that as construction changes alter the property features, sufficient pictorial data of the pre-existing condition will be available. Good photographs are particularly important if a claim is filed and the property is demolished before the Court Proceeding.

**Neighborhood Inspection**
The assembly of data should include an overview of the immediate neighborhood of the subject property. Such data assembly and analysis would encompass the generally accepted components of a professional neighborhood analysis, including influences and trends that could enhance or detract from property values.

**Sales Inspection**
The appraiser should use all available resources to obtain a collective overview of recent market transactions in the project’s area. Relevant sales should be carefully reviewed and personally inspected if they are to be considered as comparables in the appraisal process. This function and responsibility should not be delegated to another person. Where comparable sales are used for a structure being acquired, interior inspection of such comparable sales structures is mandatory unless sufficient reason is given as to why it could not be accomplished. Obviously, such comparable sales analysis would include the size and shape of the site and the location and setback of the structures located thereon. Lastly, (and as noted previously) the sales price must be verified by someone who is a party to the conveyance such as grantor, grantee, real estate agent/broker for the transaction, or one of their legal representatives.

**Reproduction/Replacement Costs**
Cost indices may be the source of unit prices for reproduction or replacement estimates; however, the appraiser should as a matter of professional practice, check on local cost conditions and determine more specific unit prices from local builders.

**Market Rent**
Depending upon the appraisal problem, the appraiser may need to collect, inspect, and record pertinent data in connection with comparable rentals for income type properties. This would include an analysis of lease data, and the interview of owners, tenants, real estate brokers and knowledgeable individuals in lending institutions to ascertain current ranges of rental fees, terms and conditions of occupancy.
Zoning
Zoning regulations, and availability of variances therefrom, are an integral part of the data assembly process. Ordinances, flood plain and zoning maps are available from the appropriate political subdivisions, or through local government offices. Assessment data (including equalization rates) are available at the local assessor’s office, or other central depository of such information.

Approaches to Value
There are three basic approaches to value; the sales comparison, income capitalization and cost (less accrued depreciation). In New York State, the sales comparison and income capitalization approaches are the preferred criteria of value, unless a true specialty property exists. Accordingly, if the subject property is located in an area of relatively static real estate activity, the collection of sales data may require a more expansive search for comparable market transactions. It would necessarily follow that the farther from the subject area the appraiser goes in his data collection, the less truly comparable the properties become. If this is necessary, the determination and assembly of such data will require more intensive analysis and adjustments should be explained in greater detail. Obviously, the appraiser should make every effort to find and analyze comparable sales of similar properties and avoid sales that require excessive and multiple adjustments.

In order for the Department to quickly and easily determine the relative comparability of the sales chosen by an appraiser, all sales comparison grids are required to include entries showing the total gross and net adjustments to each sale expressed as a percentage of the unadjusted unit price. The sales chosen should have the same highest and best uses and be able to stand affirmatively against the following question:

Would any reasonable buyer of the sales used have considered the subject property as a substitute or stated in other words, do the subject and sales compete for the same potential buyers?

Certification
In appraisal work, especially of a project nature, delegation of certain mechanical work function in the assembly of data is unavoidable. Even with such a necessary delegation, the appraiser personally and professionally bears sole responsibility for the appraisal report when signing the Certificate of Appraiser. Accordingly, all sales used in the report should be personally inspected and the appraisal analysis should be personally prepared.

The Appraisal Format
Value Finder: The Department has developed a Value Finder Appraisal Report format for acquisitions with values of less than $50,000. This format is illustrated in Attachment 19 and should be followed when appraising properties in this value range. The Value Finder Appraisal Report format will be used for most acquisitions of low value where damages are easily explained and supported.

Full and Before/After Appraisals: Format templates for Full or Before and After Appraisals will be provided and will coincide with the format provided in Attachment 23.
Surplus Appraisal Reports: Surplus Appraisal Reports will be made in the Full or Before/After narrative report format.

Use and Occupancy Permit Valuations: Use and Occupancy Permit Valuations determination appraisals will be made in a narrative format similar to full appraisals.

Appraisal Preparations
It is not the intention of this instruction to cover the appraisal process. There are a myriad of texts on this subject and there are many courses available to supplement practical experience. In addition, the Appraisal Foundation has promulgated the Uniform Standards of Professional Appraisal Practice (USPAP) which provide the basis of and defines the standards of acceptable requirements for integrity, objectivity, independent judgment and ethical conduct. These standards provide specific guidance for a wide range of appraisal and appraisal review activities.

Quality Control
Each Consultant shall describe and be responsible for their quality control plan by which they insure compliance with State requirements.

The State reserves the right to perform quality assurance reviews of appraisal submission under this contract.
The Department has an appraisal check sheet for appraisal reports, which would be shared with designated consultants. Consultant appraisers are permitted to use their own check sheets if they are equivalent to the Department’s. The consultant’s check sheet must be reviewed and approved by the Department.
ATTACHMENT 19 – VALUE FINDER APPRAISAL REPORT

PREPARED FOR

NEW YORK
STATE OF OPPORTUNITY.

Department of Transportation

VALUE FINDER APPRAISAL REPORT

REGION NO.:

PROJECT IDENTIFICATION NO.:

PROJECT:

MAP NO. PARCEL NO.

INSERT IDENTIFYING PHOTO OF SUBJECT HERE

REPUTED OWNER: Insert Reputed Owner’s name as it appears on the map

SUBJECT PROPERTY ADDRESS:

APPRaised VALUE: $
CERTIFICATE OF APPRAISER

PIN: Project ID#   PROJECT: Insert Project Name as it appears on the map

MAP(S):   PARCEL(S):

I, ____________, Appraiser’s Name ________________________, Appraiser’s Title ________________________, hereby certify that:

- I have personally inspected the property herein appraised (both the exterior and interior of all affected improvements). I have also made a personal field inspection of the comparable sales relied upon, and all adjustments made to such comparables were based upon an observed comparison to the property herein appraised. I have afforded the property owner and any tenant who claims ownership of fixtures the opportunity to accompany me at the time of the inspection. The subject and the comparable sales relied upon in making said appraisal are represented by the photographs;

- To the best of my knowledge and belief, the statements contained in this appraisal herein set forth are true, and the information upon which the opinions expressed herein are correct, subject to the limiting conditions set forth;

- I understand the intended use of this appraisal will be in conjunction with the acquisition of right-of-way for transportation purposes by the State of New York with the assistance of Federal and State funding sources;

- Such appraisal has been made in conformity with appropriate laws, regulations, and policies and procedures applicable to appraisal of property for such purposes; and to the best of my knowledge no portion of the value assigned to such property consists of such items which are non-compensable under appropriate established law;

- Neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the development or reporting of a predetermined result, or the occurrence of a subsequent event directly related to the intended use of this appraisal;

- I have no direct or indirect present or contemplated future personal interest in the subject property or in any benefit from the acquisition of the property appraised, and no personal interest with respect to the parties involved; I have no bias with respect to the subject property or to the parties involved in this acquisition; no one provided significant professional assistance to the person signing this report unless they are acknowledged;

- I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the New York State Department of Transportation or officials of the Federal Highway Administration and I will not do so until authorized by State Officials, or until I am required by due process of law, or until I am released from this obligation by having publicly testified as to such findings; and

- Therefore, my opinion of compensation for the acquisition as of effective date of valuation is $________, based upon my independent appraisal and the exercise of my professional judgment.

Date: Date appraisal report was completed ________________________________  

Appraiser’s name, Appraiser’s title  

Page 2 of 12
GENERAL ASSUMPTIONS AND LIMITING CONDITIONS: The certification of the Appraiser appearing in this appraisal report is subject to the following conditions and to such other specific and limiting conditions as are set forth by the Appraiser in this report.

1. The Appraiser assumes no responsibility for matter of a legal nature affecting the property appraised or the title thereto, nor does the Appraiser render any opinion as to the title, which is assumed to be good and marketable. The property is appraised as though under responsible ownership.

2. Any sketch in the report may show approximate dimensions and is included to assist the reader in visualizing the property. The Appraiser has made no survey of the property.

3. The Appraiser is not required to give testimony or appear in court because of having made the appraisal with reference to the property in question, unless arrangements have been previously made therefore.

4. Any distribution of the valuation in the report between land and improvements applies only under the existing program of utilization. The separate valuations for land and building must not be used in conjunction with any other appraisal and are invalid if so used.

5. The Appraiser assumes that there are no hidden or unapparent conditions of the property, subsoil or structures, which would render it more or less valuable. The Appraiser assumes no responsibility for such conditions or for engineering which might be required to discover such factors.

6. Information, estimates, and opinions furnished to the Appraiser, and contained in the report, were obtained from sources considered reliable and believed to be true and correct. However, no responsibility for accuracy of such items furnished to the Appraiser can be assumed by the Appraiser.

7. Disclosure of the contents of the appraisal report is governed by the Bylaws and Regulations of the professional appraisal organizations with which the Appraiser is affiliated.

8. Neither all, nor any part of the content of the report, or copy thereof (including conclusions as to the property value, the identity of the Appraiser, professional designations, reference to any professional appraisal organizations, or the firm with which the Appraiser is connected), shall be used for any purposes by anyone but the client specified in the report, without the previous written consent of the Appraiser, nor shall it be conveyed by anyone to the public through advertising, public relations, news, sales, or other media, without the written consent and approval of the Appraiser.

9. On all appraisals, subject to satisfactory completion, repairs, or alterations, the appraisal report and value conclusion are contingent upon completion of the improvements in a workmanlike manner.

10. The property is assumed to be free and clear of environmental contamination or other adverse conditions that are not apparent during the property inspection.

11. The Appraiser's opinions and conclusions set forth in the report may not be understood properly without consideration of additional information in the appraiser's work file.
INTENDED USE OF THE APPRAISAL: This appraisal will be used in conjunction with the acquisition of right-of-way for transportation purposes by the State of New York with the assistance of Federal and State funding sources.

INTENDED USER OF APPRAISAL: This report is intended for use only by the New York State Department of Transportation (NYSDOT) and the Federal Highway Association (FHWA).

DEFINITION OF MARKET VALUE*: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised and each acting in what he considers his own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions** granted by anyone associated with the sale.

*The Dictionary of Real Estate Appraisal, Appraisal Institute, 5th edition. This definition of market value is acceptable in New York courts.

**Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the markets reaction to the financing or concessions based on the Appraisers judgment.
VALUE FINDER APPRAISAL REPORT

PIN: Project Identification #   S.H.: State Highway #   PROC. NO.: Proceeding #

PROJECT: Insert Project Name as it appears on the map

COUNTY: TOWN/VILLAGE/CITY: TAX MAP #

REPUTED OWNER(s): Insert Reputed Owner’s name as it appears on the map

OWNER’S ADDRESS: Insert Reputed Owner’s mailing address

MAP(s) PARCEL(s) ZONING ESTIMATED BEFORE VALUE
Appraiser’s best estimate or Assessed Value

LOCATION OF SUBJECT PROPERTY: Identify the address and/or physical location of property

SALES HISTORY OF SUBJECT PROPERTY: Provide a 5-year sales history, including date(s), and sale price(s) of prior conveyances, or last deed of record.

APPRaisal PURPOSE: Appraisal Purpose can be expanded to provide greater detail, if warranted.

SCOPE OF APPRAISAL: Scope of Appraisal can be expanded to provide greater detail, if warranted.

DESCRIPTION OF SUBJECT PROPERTY: At a minimum, the description should include total land size, building improvements, land improvements, and current use of the subject property (residential, commercial, industrial, etc.). In some cases, it may not be practical to list all of the building improvements or land improvements, as there may be too many to mention. Example: if the subject is a large dairy farm operation, simply indicate that the property is being utilized as a dairy farm that is improved with related land & building improvements.

HIGHEST AND BEST USE: State the highest and best use of the subject. Provide additional commentary regarding your determination, if necessary. Example: if the Highest and Best use is something other than its present use.
DESCRIPTION OF ACQUISITION: Provide a brief description of, and reason for, the acquisition(s) and state the purpose of them. Refer to the acquisition map or general plan sheet for description details.

Examples: Parcel 20 consists of a 4-foot wide elongated strip along the subject frontage; Parcel 20 is a Permanent Easement for drainage maintenance; Parcel 21 is a Temporary Easement in conjunction with a temporary detour.

EFFECT OF ACQUISITION: Provide an explanation of the acquisition’s effect (loss of screening, setback reduction, severance damage, etc.) on the subject. Examples follow:

1) The effect of the acquisition is to reduce setback of the residence from 55± feet to 20± feet and bring the travel lane 10± closer to the residence.

2) The effect of the acquisition is to reduce parking from 6 spaces to 4 spaces.

3) The effect of the acquisition is loss of screening due to the removal of 15 bushes.

4) The effect of the acquisition includes direct damage to the land and land improvements by virtue of the Fee and Temporary Easement. There is no indirect damage. Remaining land and land improvements are not adversely affected.

The explanation may be either well-defined (examples 1-3) or less explicit in nature (example 4).
## VALUATION DATA

### VALUE OF ACQUIRED LAND

<table>
<thead>
<tr>
<th>Map</th>
<th>Parcel</th>
<th>Area</th>
<th>Type</th>
<th>Unit Value</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>SF/Acre</td>
<td>FEE</td>
<td>$/SF x SF = $127.15</td>
<td>$225 (R)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SF/Acre</td>
<td>PE</td>
<td>$/SF x SF x 90% = $83.96</td>
<td>Add FEE total(s) to PE total(s) of $211.11, then round UP to the nearest $25</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SF/Acre</td>
<td>TE</td>
<td>$/SF x SF x 10% x 1 year = $7.92</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>If the TE value is under $100, the appraiser should round UP to $100. If the TE value is over $100, round UP to the nearest $25.</td>
<td>$100 (R)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### REFERENCE/SUMMARY:
If this report is part of a project with less than ten (10) maps, identify the sales used in this section and attach the sales to each report. If this report is part of a project of ten (10) maps or more, identify the sales brochure in this section. There is no need to attach sales to each report. **Note:** The Office of the State Comptroller requires the sales to be attached to an appraisal exceeding $50,000.

A summary of sale adjustments (actual adjustments not needed—just a general indication of the direction) and the reasoning behind the adoption of the appraised land value is required. Included in the summary should be the adjusted range of value.

### VALUE OF ACQUIRED UPRIMENTS:
List acquired site improvements and any applicable depreciation

Examples:

- Lawn area 345± sf @ $0.45/sf = $155.25
- Asphalt pavement 400± sf @ $2.50/sf x 20% depreciation = $800.00
  
  $955.25

Total: $975 (R)

round improvements total

UP to the nearest $25

### REFERENCE:
List cost references for site improvements. Examples: Marshall & Swift, local building supply store.
SEVERANCE DAMAGE: Yes ( ) No ( )

Total: $0

Rationale: Appraiser is to provide a narrative that outlines and justifies applicable severance damages. If severance damage applies to improvements, comparable improved property sales should be referenced and attached to the report. Examples:

1) The acquisition does not adversely affect the remainder of the property or alter its utility.

2) Severance damage is applicable to the residence due to the loss of setback to the highway from 55± feet to 25± feet. The residence is valued at $75,000. The damage is considered to be 10%. $75,000 (value of the residence only) x 10% = $7,500

REFERENCE: Attached improved Sales R-2, R-5, R-7

COST-TO-CURE (if applicable): Provide a narrative summary of the cost-to-cure and justification of the cure in relation to the possible severance damage. Cost-to-cure should not exceed severance damage.

Example: Parcel 21 will need to be re-enclosed, as this area is utilized as a pasture for cows.

Cost-to-cure 350± LF of 3-strand barbed-wire fence on wood posts @ $1.95/LF = $682.50

Total: $700 (R)

round UP to the nearest $25

REFERENCE: Marshall & Swift, Acme Fence Company
ANALYSIS OF DAMAGES

1) Direct Damages (Land and Land Improvements) $1,200
2) Severance Damage $ 0
3) Cost-to-Cure (if applicable) $ 700
4) Rental Value of Temporary Easement $ 100
   Appraised Compensation $2,000*

*Rounding occurs in numbers 1-4 only. Do not round the final value.

Owner Given Opportunity to Accompany Appraiser: Provide the date and method of owner invitation (letter, phone call). If the owner accompanied the appraiser on inspection, document the date and identify the name of the owner or the owner’s representative.

Effective Date of Valuation:
Date valuation applies; usually date of inspection

Date of Appraisal:
Date of appraisal completion, usually same date as certified signature date

Appraiser: ________________________________
Appraiser Name, Appraiser Title

Appraisal Checksheet By: To be checked by someone other than the appraiser

Date:
PROPERTY SKETCH
(Not to Scale)

➢ North Arrow

➢ Lot lines - if the lot is too large to include detail on the acquisition area, use a copy of the tax map and indicate which part of the property is included in the sketch. Then, make your sketch of the pertinent part of the lot.

➢ Highway boundary line

➢ Street name(s), both project ROW and cross streets, if necessary

➢ Arrows on each end of ROW indicating the nearest cross street or municipality (this information is usually included on the Acquisition map)

➢ Outline of the acquisition area - label each acquisition area with parcel number and type (Fee/PETE)

➢ Include and label any improvements affected by the acquisition

➢ Include improvements within the existing ROW

➢ Building location can be indicated by a square or rectangle. Building footprint on sketch does not have to be an exact replica of the structure.

➢ Add square foot/linear measurements where possible (frontage, acquisition parcel lines)

Include the following sentence at the bottom of the sketch, if applicable: Other building/site improvements are present, but omitted from the sketch due to their distance from the ROW and the acquisition area.

Reputed Owner:

Map(s): Parcel(s):

Total Map Area: Total square foot (or acre) area of each acquisition

Subject Property Area: Total square foot (or acre) area of the subject property

Subject Property Location: Address of the subject property
Aerial

Insert an aerial photograph of the subject property with lot lines depicted.

Tax Map

Insert tax map that highlights the subject property and includes applicable cross streets.
SUBJECT PHOTOGRAPHS

Two photographs per page.
Insert photographs that clearly show the acquisition area(s).
Include as many photographs as necessary to illustrate the acquisition area and its
effect on the property.

Location: Where are you standing when View: Southwest/Northeast
this picture is taken? (side yard, back of house, station number on plan sheet)

Showing: You can be specific or general here. Date: Date of inspection
What is the intent of the photograph? (to show an
improvement to be acquired, to show topography,
trees, shading, screening, hedge row, septic/well)
Reference the parcel number, if more than one exists.

Photograph Taken By:  

Location:  View: 
Showing:  Date: 

Photograph Taken By:
Form Instruction 900 ROW A1 to 17
ATTACHMENT 20 – SUMMARY OF VALUATION (ALLOCATION OF BEFORE AND AFTER VALUES)

ROW-A 1-15 (12/18)

SUMMARY OF VALUATION

ALLOCATION OF BEFORE AND AFTER VALUES

<table>
<thead>
<tr>
<th></th>
<th>Before Value</th>
<th>After Value</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Land Improvements</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Buildings</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>*Other</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Total</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

ANALYSIS OF DAMAGES

<table>
<thead>
<tr>
<th></th>
<th>DIRECT DAMAGE</th>
<th>INDIRECT DAMAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Land Improvements</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Buildings</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>*Other</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Total</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

* Set forth amounts for Cost to Cure, Trade Fixtures, or Salvage Value separately and label. Add rows as necessary.

COMPENSATION

<table>
<thead>
<tr>
<th></th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>DIRECT DAMAGE + INDIRECT DAMAGE</td>
<td></td>
</tr>
<tr>
<td>TEMPORARY EASEMENT(S)</td>
<td>$</td>
</tr>
<tr>
<td>COST TO CURE</td>
<td>$</td>
</tr>
<tr>
<td>SALVAGE VALUE</td>
<td>($)</td>
</tr>
<tr>
<td>TOTAL COMPENSATION</td>
<td>$</td>
</tr>
</tbody>
</table>

SPECIAL NOTES: (identify any Third-Party Interests, Uneconomic Remainders, Etc.)
Compensable and Non-Compensable Guidelines

PROCEDURAL GUIDELINES

The first and most widely accepted rule when assessing consequential damages is that the damages are only compensable if there is an actual physical acquisition of property. In other words, there must be direct loss of property in order for consequential damages to the remainder to be considered.

When analyzing an acquisition, the appraiser must not only estimate the value of what is being taken, but must also identify and assess any reduction in value to the remaining lands and improvements resulting both from the acquisition of property as well as the impacts of the construction of the proposed project. The best and most comprehensive way to determine if damages to the remainder exist is to do a “before and after value appraisal” of the property. Even when this occurs, the reduced value should be analyzed to determine and identify what specific impacts are responsible for the value loss.

Generally, most damages resulting from the acquisition are compensable, but there are numerous impacts that can result from a project that may not be directly related to the acquisition or to the proposed public improvement. It is important, therefore, to fully understand the project and its impacts on both the general area as well as the properties that are being directly affected through acquisitions. As part of this review, the appraiser should be aware of the sovereign's authority under both Eminent Domain and Police Power. It has been often stated that Police Power is the Government's right to restrict a property right because it is necessary; while Eminent Domain is the Government's right to restrict a property right because it is useful.

Through Police Power, government can restrict various property rights without compensation. These powers are usually exercised to promote public health, safety and the general welfare of the public. Examples of Police Power include zoning regulations, health codes, traffic controls, building requirements, air and water pollution safeguards, etc. In summary, Police Power prohibits property owners from using their land for purposes that will injure or cause problems for the surrounding community.

Eminent Domain is a separate and distinct power of government which provides authority to appropriate (or condemn) private property for public purposes. This authority is reserved for those governmental agencies that must acquire privately-owned lands for needed public improvements. These agencies must comply with all legal requirements and must be specifically empowered to condemn or appropriate the real property. Both Federal and state laws require that when Eminent Domain is exercised, government is obligated to compensate all property owners for the full fair market value for lands (and improvements) that are acquired and to include compensable damages for the reduction in value of the remaining lands. The following guidelines are offered:

A. Compensable Damage. Compensable damage should include any diminution in value to remaining land which is legally attributable to the acquisition or the proposed public improvement. These may include:

1. Change in Highest and Best Use. If an acquisition results in the remaining property having a less valuable highest and best use than before, this is a compensable consequential damage.
These damages can be attributable to loss of access, reduction of area, reduction in setback, change in the highway's elevation, and a host of other impacts that are directly related to the acquisition and the proposed public improvement.

2. Proximity and Relationship of the Highway to the Remaining Lands and/or Improvements. Even if the remaining property's highest and best use does not change, the appraiser should consider all damages caused by the acquisition and proposed construction as listed in Subsection 1 above.

3. Loss of Access. Denying an owner access to remaining lands should be considered as a consequential damage.

4. Change of Grade (Elevation of Highway). If the acquisition and construction of the public improvement results in the remaining property having more difficult, dangerous or even less attractive access, it should be considered as a consequential damage.

5. Other examples of consequential damages are as follows:
   a. Loss of shade trees which are located within the existing highway right-of-way (if there is an acquisition in the immediate area of the residence and the trees enhanced the remainder).
   b. Removal of fencing which is located within the existing highway (if it is necessary for the owner to re-enclose the property).

When assessing consequential damages, it is important to describe the rationale for including the damage, and the appraiser should also provide an estimate of the before value of the property (land and improvements) that is being affected by the acquisition. In addition, there are instances where the consequential damages can be resolved through a “cost to cure” procedure. In these cases, the cure and its costs should be adequately described. However, the cost to cure should never exceed the damage it is intended to cure.

B. Non-Compensable Damage. These damages may also result from the acquisition or the construction of the public improvement, but for the following reasons are not legally compensable:

1. Damage is not directly related to the acquisition but is common to all property owners in the area (e.g., modification of traffic flows or patterns, or temporary interruptions during construction).

2. Damage is caused by the enforcement of Police Power rather than the exercise of Eminent Domain. This is a sensitive area, and questionable items should be referred to the Main Office Appraisal Management Group.

3. Damage is speculative or conjectural in nature (e.g., increased probability of farm animals being injured or killed, potential drainage damage due to re-designed highway, etc.).

4. Damage which is generally not recoverable under common law - the doctrine of *damnum absque injuria* (i.e., loss, harm or injury without legal damage) (e.g., removal of building and/or land improvements that are located within the existing right-of-way).

5. Examples of non-compensable damages include:
   a. Loss of business, profits, or “good will”.
   b. Circuitousness of travel causing longer trips to reach the remaining property.
   c. Damages related to creation of a cul-de-sac.
   d. Loss of exposure.
   e. Noise, dirt, dust or odors created or resulting from the project or the subsequent improvement.
[Note: Some courts have ruled that some of these items (especially noise) may be compensable.]

f. Diversion of traffic or modified traffic patterns resulting from the project.
g. Placement of the remaining property on a frontage road or a highway with less or more traffic.
h. Temporary loss of access during construction.
i. Modified access due to installation of medians or dividers.
j. Removal of encroachments which are within the existing highway right-of-way.
k. Damages resulting from the cancellation of improper use of existing right-of-way (e.g., using right of way to service gas sales or for parking).
l. Removal of tree(s) located within the existing right of way if there is no acquisition in the immediate area.
m. A reduction in the value of personal property which is caused by the real property's loss of utility.

Under New York State Laws, consequential damages must be paid for unless it can be demonstrated that the benefits being generated by the proposed public improvement exceed the damages. This means that the appraised compensation must always include the value of the direct acquisition, but that consequential damages can be offset by both the general and special benefits that will occur as a result of the acquisition and proposed project. For the purpose of this Instruction, general benefits are those increments in value that will occur for all properties in the project area, and special benefits are those that occur to only the property being appraised.
ATTACHMENT 22 – GUIDELINES FOR ROUNDING

1. Rounding should be reasonable, within the range of the significant figures and upward, generally. Exceptions are pointed out where applicable herein.

2. Special conditions to be noted for recommendation of Just Compensation in Partial Acquisition appraisals are:
   a. Final value determinations must always be upward.
   b. The Uniform Act and Federal Regulations on appraisal encourage upward rounding.
   c. Always round upward when reconciling the Before value in an appraisal of partial acquisition.
   d. When upward rounding is applied in the final value conclusion of the After Valuation of a partial acquisition appraisal, and the rounding is not within the lowest significant figures, it can have the unintended effect of reducing Just Compensation. It is important to be mindful of how the final “Before” and conversely the “After” values are rounded to avoid this impact.

3. Rounding should be done within a reasonable magnitude of the significant figures. General guidelines based on observed significant figure magnitudes in the market data are as follows:
   a. $100s, round value determinations to $10s
   b. $1000s, rounding to $100s or $10s are both reasonable
   c. $10,000, rounding either to $100s or $1000s may be reasonable
   d. $100,000, rounding either to $100s or $1000s
   e. $1,000,000, round to $1000s or $10,000s, again depending on what is reasonable.

4. Illustrative Examples within sub-sections and/or individual approaches to value:
   a. Square foot unit values calculated during sales analysis indicate $145.70, $142.22, $119.79, and $146.22. It would be reasonable to round these values within the grid to $146, $142, $120, and $146. It would be inappropriate to round $145.70 to $150, as the significant figure is determined by the market, which communicates the price per square foot to the $1.00.
   b. Valuing Site Improvements: 55 feet of fencing based on $112.47/linear foot results in $6,185.85. Rounding to either $6,186, or $6200 would be appropriate - the first if it were one of several improvements you are accounting for, while the second choice would apply if it were the only site improvement being considered.
   c. When reconciling final value estimates a figure of $258,399 would be considered appropriately rounded to $258,500, whereas $258,799 would be appropriate either at $258,800 or $259,000.

5. When reconciling the individual approaches to value (Sales Comparison, Income, and/or Cost Approaches) it is acceptable to round individual value estimates. These should be done within reasonable significant figures represented by the data analyzed.

6. Care must be taken to use sound and reasonable judgment where values increase in magnitude. This will avoid final estimates of Just Compensation from being either unreasonably inflated or diminished.

7. Avoid compound rounding, especially where it disadvantages the property owner by lowering value. Where there are multiple elements of compensation comprising the total estimated damages, it is best to minimize rounding of those separate figures until they are tallied. Then reasonable rounding can be applied to the final estimation of damages.
I hereby certify:

That on ______________________ (date(s)) I personally made a field inspection of the property herein appraised, and that I have afforded ________________________, property owner/designated representative, the opportunity to accompany me at the time of inspection. (If inspection accompaniment is not made, state reason) ________________________. I have also, on _________________________ (date)(s), personally made a field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were as represented by the photographs contained in said appraisal.

That to the best of my knowledge and belief the statements contained in the appraisal herein above set forth are true, and the information upon which the opinions expressed herein are based is correct. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions. I am in agreement with all statements provided in this report.

That such appraisal may be used in connection with the acquisition of right of way for a transportation project to be constructed by the State of New York with the assistance of Federal-aid highway funds or other Federal Funds.

That such appraisal has been made in conformity with the appropriate State laws, regulations, and policies and procedures applicable to appraisal of right of way for such purposes; and that to the best of my knowledge no portion of the value assigned to such property consists of items which are non-compensable under the established law of the State of New York.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised, and no personal interest with respect to the parties involved.

That I, in determining the compensation for the property, have disregarded any decrease or increase in the fair market value of the real property that occurred prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner.

That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the New York State Department of Transportation or officials of the Federal Highway Administration, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.

My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice as well as Federal regulation 49 CFR Part 24.
I disclose that:

I have not provided any services regarding the subject property within the three-year period immediately preceding acceptance of the assignment, as an appraiser or in any other capacity. If this is not checked then the appraiser must provide an explanation and clearly and conspicuously disclose whatever services have been provided for this property in the past three years.

No one provided significant real property appraisal assistance to the person signing this certification.
(When any portion of the work involves significant real property appraisal assistance, the appraiser must describe the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant real property appraisal assistance in the certification, in accordance with Standards Rule 2-3.)

That my opinion of the fair market value of the property being acquired, including temporaries, as of

is ____________________________ based upon my independent appraisal and the exercise of my professional judgement.

Date Signed: ____________________________ Signature: ____________________________

Typed Name: ____________________________ Certification/License Number: ____________________________

(Note: Other statements required by the regulations of an appraisal organization of which the appraiser is a member or by circumstances connected with the appraisal assignment or the preparation of the appraisal may be inserted where appropriate.)
ATTACHMENT 24 – OFFICE OF RIGHT OF WAY – FULL, BEFORE & AFTER AND VALUE FINDER APPRAISAL REPORT FORMAT

I. PURPOSE

The Appraisal Report Format, consisting of Section 1 thru Section 19, has been developed for the preparation of appraisals for the New York State Department of Transportation. There are three general types of appraisals as follows:

A. **The Full Appraisal** -- Used in full takings when compensation exceeds $50,000 and there is no severance damage. Nothing further is required beyond an appraisal of the whole property with separation of interests where required and analysis of damages.

B. **The Before and After Appraisal** -- This type of appraisal is used in cases of a partial acquisition and when compensation exceeds $50,000. This report format can also be used for damages under $50,000 for complex appraisals and at the discretion of the appraisal manager.

C. **Value Finding Appraisal** -- The Value Finding Appraisal Format can be used to evaluate real property acquisitions which are uncomplicated in nature, and when the total damages are expected to be less than $50,000. Permission to use this format for acquisitions with values above $50,000 can be requested in writing from the Main Office Review Appraiser.

These formats may be modified and/or embellished to accommodate the appraiser's preference of computer software, but the basic layout and data requirements **MUST** be preserved.

In a great many cases, extensive and cumbersome before appraisals can be avoided. Regardless of the format used, it is expected that the scope of the property to be appraised in both the before and after situation will fit the appraisal problem at hand.

Say, for example, you are dealing with a small taking from a farm property, after conducting the property inspection and completing the comparable sales research, you determine that no damages exist to either the buildings or any portions of cultivated lands. Consequently, these items would **not** be included or appraised in the before situation. However, the necessary qualifying statements must be made within the body of the appraisal. Owing to the less complex nature of a good percentage of our appropriations, this concept should be widely applied.

II. PREPARATION

The required minimum elements of the individual type of appraisal are given in the paragraphs that follow.

A. FULL APPRAISAL

*The full appraisal utilizes Sections 1 to 18, ROW A 1-15 and sales data sheet.*

1. **THE TITLE PAGE – SECTION 1**

   This page is primarily designed to be an attractive cover sheet. Additionally, it serves two auxiliary purposes. 1) Incorporating the appraised compensation for display. 2) Summarizing the data needed in the Main Office of the Office of Right of Way for incorporation in the Real Property Declaration. A picture of the property should be included either on the cover page or within the first few pages of the appraisal. The headings are self-explanatory. However, it must be emphasized that each map, and more particularly each parcel covered by the appraisal, must be specified on the title page. It is
assumed the parcel is a fee with access unless otherwise noted after the parcel number, e.g., PE, TE, Fee without access.

2. TRANSMITTAL LETTER – SECTION 2
A letter of transmittal means any type of written letter, memorandum, or statement that serves as a notice of delivery from the appraiser to a second party of a report containing an opinion or conclusion concerning real estate. The letter of transmittal need not contain a statement of the value or other opinion(s) as set forth in the body of the report. If it does, however, the appraiser must try to ensure that the letter remains attached to the remainder of the report. If the letter of transmittal contains the appraiser’s conclusion(s) and becomes detached from the body of the appraisal report, the letter could be used or construed as an appraisal report in itself. The reader of the letter could be misled or confused since the letter in itself will not typically meet the reporting requirements of USPAP.

3. TABLE OF CONTENTS – SECTION 3
The Table of Contents in a document acts as a map for the reader, making it easier for them to find information in the document based on title and page number. A good Table of Contents should be organized, easy to read and simple to use. The table of contents should be linkable to each section of the report.

4. CERTIFICATE OF APPRAISER – SECTION 4
This form (Attachment 23) must appear in all Full Appraisals and/or Before & After Appraisals. The appraiser fills in the names, map and project information, the date of appraisal, the appraised compensation and executes the certificate. This form is not intended for use with the Value Finding Appraisal.

5. SUMMARY OF SALIENT FACTS – SECTION 5
This section very briefly summarizes certain data about both the property appraised and the appraisal itself. It should supply the person reading or reviewing the appraisal with a digest and summary of the important "highlights" of the appraisal which is to follow. At a minimum, this form should include:

1) Type of Property
2) Total Property Area
3) Present Use of Property
4) Property Improvements
5) Property Rights Appraised
6) Area Appropriated
7) Improvements Taken
8) Land Improvements Taken
9) Before Value
10) After Value
11) Damages
12) Occupancy & Leases Affecting Subject Property

While most of the required information is self-explanatory, the importance of properly and fully including information relating to the occupancy and lease data must be emphasized. This information, inserted at this particular point, alerts the appraiser, the reviewer, the negotiator, and others to the possibility that leasehold interests may exist in the property which are to be considered and separately evaluated later in the appraisal report.
6. **SECTION 6**
   a. **AREA AND NEIGHBORHOOD ANALYSIS, ECONOMIC TRENDS, AND ZONING REGULATIONS**

   Normally the area and neighborhood analysis of the subject property, together with an economic trends analysis, is included in a separate brochure or appraisal supplement. If no brochure is produced, this material is to be supplied individually for the appraisal and included after the Summary of Salient Facts. No form is designed for this data.

7. **SECTION 7**
   a. **APPRAISAL PROBLEM/SCOPE OF WORK**

   This section of the appraisal is common to both Full and Before and After appraisals. However, there are variations in the statement peculiar to each type of appraisal. These variations are as follows:

   1. **Full Appraisal** - A statement of the type of property involved, such as a one-family residential, single-story commercial, dairy farm, etc. The appraiser must then discuss the methods and techniques he will use to solve the valuation problem. Normally all three approaches to value will be considered in the appraisal. If a particular approach is not used, however, the appraiser shall state in the appraisal the reason why it is not applicable in the instant case. In the case of a partial taking, the appraiser should extend the description of the basic problem as outlined to include the reasons why severance damages do not exist, which makes this format appropriate.

   2. **Before and After Appraisal** - The appraiser includes a discussion as outlined in (1) above, but further discusses these points in relation to the after situation, with an explanation that appraised compensation will be predicated on the differences in value. There should also be discussion of anticipated potential severance damage and how such damage will be analyzed.

   “Identifying the problem to be solved is required in order to make critical judgments in determining the appropriate scope of work. Therefore, the assignment elements necessary for problem identification in an appraisal assignment also serve as reference points in determining whether the scope of work performed was appropriate to provide credible assignment results.

   USPAP recognizes that the appropriate scope of work may differ significantly for different assignments; the SCOPE OF WORK RULE provides flexibility in determining the scope of work. The competency necessary to determine an appropriate scope of work within the allowed flexibility resides with the appraiser. Therefore, while it is common and reasonable for the client to provide input to the appraiser regarding a desired scope of work, the responsibility for determining the appropriate scope of work resides with the appraiser.”

   b. **PROPERTY INSPECTION AND CONTACTS**

   The primary reason for this section is to provide documentation of the dates the property was inspected, persons contacted and other related information. The Uniform Act requires the property owner or their representative to accompany the appraiser on inspection of the property, if they so desire. *A copy of the letter offering the property owner an opportunity to accompany the appraiser during the inspection must be included in the addenda.*
c. ASSESSED VALUATION, TAXES AND ZONING

Of special note is the requirement that the tax rate indicated should be the sum of all the real property rates which apply such as county, town and school rates. The appraiser must briefly describe the specifics of the zoning such as "single family residential, 1/4 acre, minimum 80 foot frontage," etc. A mere recitation of the particular zoning classification, such as "2-C" is meaningless because of the varying nomenclatures used in the various jurisdictions. If the zoning situation is complicated, it should be developed on a separate sheet added to the addenda. In this case, the appraiser would make a simple summary of the zoning at this point, with a further reference to the addendum for complete details and findings.

d. FIVE YEAR SALES HISTORY OF PROPERTY

If there have been no sales of the subject property within the preceding five years, the appraiser will merely so state this fact. If there have been any sales during this period, enter the pertinent information. Anything that casts doubt upon the validity of a transaction should be noted. Sale of a subject over five years should be included if deemed significant.

8. GENERAL ASSUMPTIONS AND LIMITING CONDITIONS – SECTON 8

This Section should be used in both the Full and Before and After appraisals. It provides the basic "boiler plate" general assumptions and limiting conditions. Additional limiting conditions may be inserted as necessary.

9. DESCRIPTION OF PROPERTY – SECTION 9

The heading of the form should be appropriately extended to show "Before" or "After" as applicable. The description which follows is to be a concise narrative description of the entire property. The appraiser shall include information indicating the available public utilities and the nature of the sidewalks and streets. If any of the utilities are privately owned, such as a well or septic system, they should be mentioned in the narrative.

10. HIGHEST AND BEST USE – SECTION 10

The analysis in this section is central in the appraisal process. The appraiser is expected to fully develop the reasons for his selection of highest and best use. If the highest and best use is other than existing use, a full development of the reasons must be set forth.

11. APPRAISED VALUE OF LAND – SECTION 11

The heading on this section should be altered to appropriately designate either the "before" or "after" valuation.

For quick comprehension of the comparables used, a grid format is placed on this page. The appraiser has flexibility of selecting pertinent comparison items such as, price, location, area, shape, topography, zoning, utilities, etc. Adjustment factors vary depending upon the particular appraisal problem. This section may be adjusted/expanded to suit the needs of the appraisal problem.

The basic format should vertical columns. The first vertical column should be entitled "SUBJECT" and is to be used for a listing of the pertinent factors which are the primary points of comparison with the comparable sales analyzed. Thus, appropriate dimensions of same would be inserted in the "subject" column.
The additional vertical columns are meant to show the specific adjustments made to the individual sales referenced by number at the top of the column. The adjustments area of the grid should provide for two lines of information: one to be used for the specific data of the comparable sale which is the point of comparison, and the other line to show the adjustment in dollar amounts or percentages with plus or minus. Thus, an adjustment for lot size might be set forth as:

\[
80 \times 100 = 8,000 \text{ sq. ft.} \\
+ \$400
\]

In addition to the grid delineation, there must be a written explanation of each adjustment following the grid. If more than three sales are necessary to properly develop a value, additional columns should be inserted.

Included in the narrative explanation of adjustments should be a range of adjusted value and a brief reconciliation to the figure selected as the indicated value.

12. APPRAISED VALUE OF LAND IMPROVEMENTS – SECTION 12

This section is used to provide a detailed listing of specific land improvements. The individual improvements should be listed, the number of such improvements or the area, the unit cost, the replacement cost and finally the enhancement value. Enhancement value reflects the appraiser's judgment of the contribution to total value made by the item or items.

13. DETAILED DESCRIPTION OF BUILDING IMPROVEMENTS – SECTION 13

This section should be used to give a permanent record of construction details and condition of the component parts of major buildings. Detail as to type and condition of the components are briefly stated. This section serves as the only detailed description of building improvements.

The appraiser shall provide a general description of the overall condition of the main structure and notations on features which might contribute to functional, economic, or physical depreciation.

If applicable, at the end of this section, the appraiser shall include a description of small auxiliary building improvements such as garages or sheds.

If there is more than one major building improvement, all should be included.

A separate sketch showing building dimensions should be included in the appraisal addenda. A floor plan must be shown if a building is taken.

14. COST APPROACH ESTIMATE – SECTION 14

When developed, this section is used to determine the particular valuation for each major building improvement. This section is not keyed to any one particular cost estimating service but may be adapted to any acceptable reference.

The cost approach is based on the understanding that market participants relate value to cost. In the cost approach, the value of a property is derived by adding the estimated value of the land to the current cost of constructing a reproduction or replacement for the improvements and then subtracting the amount of depreciation in the structures from all causes. Entrepreneurial profit and/or incentive may be included in the value indication. The current cost to construct the
improvements can be obtained from cost estimators, cost manuals, builders and contractors. Depreciation is of three different types (physical deterioration, functional obsolescence and external obsolescence) and is measured through market research and the application of specific procedures. Land value is estimated separately in the cost approach. This approach is particularly useful in valuing new or nearly new improvements and properties that are not frequently exchanged in the market.

Cost approach techniques can also be employed to derive information needed in the sales comparison and income capitalization approaches to value, such as an adjustment for the cost to cure items.

15. COST APPROACH TO VALUE – SECTION 15

With the addition of the word "Before" or "After" to the title, this section provides both for the summary of the cost approach to value, and for the explanation of the depreciation adopted. Each structure or improvement should be separately referred to and the explanation of depreciation for each structure or improvement set forth in a logical reasoned manner.

16. INCOME APPROACH TO VALUE – SECTION 16

This section to develop the income approach in the majority of cases where an economic approach would be used. It should be keyed to the "building residual" technique, which would be applicable to and utilized in the majority of such appraisals. If another technique is deemed more appropriate, a modified version may be substituted.

Rental data should be analyzed and adjusted in a grid similar to the sales comparison grid. Any comparable sales data so used for this purpose are to be referenced at this point, but full explanation and analysis thereof is to be included on additional pages or in the addenda.

As with the economic rent, support material for the interest rate selected and appropriate analysis must be included either in the body or in the addenda, but the particular method used and the calculations leading to the rate selection would be shown in the body of this section. This section is used for the summary of the reconstructed expense estimates. The justification for the individual allocations of expenses and reserves must be included.

17. PROPERTY VALUE BY THE SALES COMPARISON APPROACH – SECTION 17

The heading of this section should be appropriately extended to show "Before" or "After" as applicable.

With the exception of the supporting market data, the entire sales comparison approach is shown in this section. The grid at the top is completed in a manner similar to the criteria set forth for the Cost Approach Land Valuation in Section 11. There may, however, be more points of comparison, depending on the individual property being appraised.

Below the grid, the support for each of the adjustments must be fully explained in narrative fashion, including appropriate calculations. In addition, a brief reconciliation statement should be made explaining the final figure selected and shown on the bottom of the page as the indicated value of the subject. Individual data sheets for all sales used are to be included in the addenda.
18. RECONCILIATION AND FINAL ESTIMATE OF VALUE – SECTION 18

This section is used for reconciliation of the various approaches to a final estimate of value. It is significant that the courts in New York have generally ruled the "fair market value" is the basis of measuring damages. Except in the case of a special purpose property, the cost approach is generally used only to reinforce other approaches. For business or investment properties, the income approach may well be as important as the sales comparison approach.

If there are separate interests entitled to portions of the compensation, they may be separated at the bottom of the sheet after the final estimate of value.

If the entire property is taken, the appraisal is completed at this stage and needs only the required addenda.

B. BEFORE AND AFTER APPRAISAL

The before and after appraisal utilizes Section 1 thru 18. In all cases of a partial taking where severance damages exist and total compensation exceeds $50,000, a full "before and after" appraisal is required. Essentially the appraiser is to make a complete appraisal of the property as it exists before the appropriation and then a second complete appraisal as the property will exist after the appropriation with the improvement presumed built. The difference between the "before" and "after" value will represent compensable damages except where non-compensable damages must be deducted or where benefits must be offset against severance damages.

The "before" section of the appraisal is basically identical to the full appraisal except that in the discussion of the APPRAISAL PROBLEM, analysis must be made of the "after" situation, with an explanation that appraised compensation will be predicated on the differences in value.

The before and after appraisal calculates damages through the process of making a full appraisal of the remainder property and subtracting this amount from the valuation of the entire property before appropriation. Additional forms are utilized as follows:

1. VALUATION OF REMAINDER PROPERTY – SECTION 19

This section appears only in the "before and after" appraisal. The section contains four headings as follows:

a. DESCRIPTION OF APPROPRIATION AND RIGHTS TAKEN

As the heading indicates, the appraiser is to give a full description of the physical taking and an explanation of the property rights taken. The approach to be utilized here is not a verbatim recitation of the metes and bounds description copied from the appropriation map, or a similar type of purely engineering oriented language keyed to specific courses and distances, but rather a narrative description of what is being taken from the total property in composite and easily understood form.

b. DESCRIPTION OF REMAINDER PROPERTY

The description in this section should be based on a study of plans and cross sections with the remainder property described as it will appear when the construction is completed.

c. HIGHEST AND BEST USE
This section may be very brief where there is no change of highest and best use.

If the appraiser has concluded that the highest and best use will change after the taking, the reasoning must be fully explained. Under the latter circumstances, the appraiser is likewise obligated to analyze and fully develop the highest and best use study to be fully reflective of all alternative uses.

d. EFFECT OF TAKING ON REMAINDER PROPERTY

The thought process developed in this section is of paramount importance in any before and after appraisal, and requires a conclusion reached through the highest degree of professional expertise and judgment. It is incumbent upon the appraiser to explain the source and cause of the damages by analysis of the construction features affecting the value of the remainder. Significant construction feature(s) should be identified.

2. Section 11. This section with the word "after" is utilized for land valuation.

3. Section 15. The base valuations of improvements are incorporated from the "before" appraisal by reference, but this section is utilized to summarize the remaining improvements and to adjust the depreciation if it has been affected by the appropriation.

4. Section 16. This section is used where an income property remains and is utilized to arrive at an indicated value predicated on the estimated income to the property remaining “after” the appropriation.

5. Section 17. This section is used with "after" added in the title is utilized for the sales comparison approach in the "after" situation.

6. Section 18. This section with "after" added to the title is used for a reconciliation and final estimate of value.

7. FORM ROW A 1-15. This form is designed for all partial takings. It follows section 19 of the “after” approach to value.

At the top of the form the VALUE(s) before, the VALUE(s) after and the DIFFERENCE(s) are shown for the components of the property.

In the middle of the form, the differences are broken down into direct and indirect (severance) damages with a total for the compensable damages due to the permanent taking (as opposed to the Temporary Easement rental value which follows).

Finally, a list of items being compensated for should be included. This would include a calculation of compensation for direct and indirect damages, Temporary Easements, Cost to Cure and Salvage Value. A “ZERO” should be inserted for any items not applicable. Additional rows can be added if necessary.

8. Sales Data Sheet. The form is designed to describe the sales utilized and is included in the addenda of all three types of appraisals or is available in a brochure.

9. ADDENDA

In both the Full appraisal and Before and After appraisal, the following addenda must be included in the individual appraisal report. The minimum acceptable components consist of the following items:

a. A map or sketch of the entire property. No form is utilized for this because of the differences in properties.
1. All major dimensions, buildings, and areas. A floor plan must be shown if a building is taken.
2. An outline of all major improvements accurately located.
3. A delineation of all taking lines and areas taken, clearly shown as such.
4. Accurate setback distances of improvements where setback is important in assessing damages
5. An arrow indicating North.
6. Access points identified.
7. Major highways and streets labeled.
8. A delineation of parking spaces.
9. Where known, as affected, the location of wells and septic systems.

b. A map showing the location of all comparables utilized in relation to the subject.
c. Photographs of both sales and the subject property identified either on the photograph or on the page to which affixed with sufficient detail to ascertain what the photograph represents.

Photographs of both sales and the subject property must include all principal above ground improvements or unusual features affecting the value of the property, whether interior or exterior. Photographs of the subject property should include all areas taken or damaged. While sales generally require only one photograph, additional pictures should be included if warranted.

d. An individual sales data sheet for each sale utilized in the appraisal. In addition to normal property descriptions, sales data sheets must include information pertaining to analysis of severance damage, such as setbacks, parking or other pertinent factors.
e. Information on comparable rentals when the income approach is utilized in the body of the appraisal.
f. Data used as the basis of interest selection when the income approach is utilized.
g. A copy of the Appropriation Map
h. A copy of the Deed for the Subject Property.
i. The qualifications of the appraiser, if not included in the sales brochure.
j. Any other pertinent auxiliary information.

C. VALUE FINDING APPRAISAL

The Value Finding Appraisal utilizes form ROW 451 (Attachment 19).

The Value Finder Appraisal Report format is used for uncomplicated acquisitions of low value, where damages are easily explained and supported. The appraised compensation of this format shall not exceed $50,000.

If the appraised compensation exceeds $25,000, a market grid with explanation of adjustments is required in the report. Compensation of $25,000 or less does not require a market grid or explanation of adjustments.

NOTE: Main Office Review Appraisers are authorized to increase the $50,000 limit if values are easily developed and well supported, there are no structures being acquired, and there is no severance damage to the remainder. Such authorizations are to be provided in writing.
It is understood that this appraisal report will not be distributed to 3rd parties and will be used only to appraise the value of real estate needed for planned highway improvements. This appraisal format is not intended for Court or other litigation purposes.

The shell of the Value Finder Appraisal Report can be found in the RFP as Attachment 19. Explanations of specific sections of the report are noted in red.

Pages 1 and 2 of the Value Finder Appraisal Report require information that is unknown until the appraisal is completed. Therefore, pages 1 and 2 should be completed last.
### SUMMARY OF VALUATION

#### ALLOCATION OF BEFORE AND AFTER VALUES

<table>
<thead>
<tr>
<th></th>
<th>Before Value</th>
<th>After Value</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Land Improvements</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Buildings</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>*Other</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Total</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

#### ANALYSIS OF DAMAGES

<table>
<thead>
<tr>
<th></th>
<th>DIRECT DAMAGE</th>
<th>INDIRECT DAMAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Land Improvements</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Buildings</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>*Other</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Total</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

* Set forth amounts for Cost to Cure, Trade Fixtures, or Salvage Value separately and label. Add rows as necessary.

### COMPENSATION

<table>
<thead>
<tr>
<th></th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>DIRECT DAMAGE + INDIRECT DAMAGE</td>
<td>$</td>
</tr>
<tr>
<td>TEMPORARY EASEMENT(S)</td>
<td>$</td>
</tr>
<tr>
<td>COST TO CURE</td>
<td>$</td>
</tr>
<tr>
<td>SALVAGE VALUE</td>
<td>($        )</td>
</tr>
<tr>
<td>TOTAL COMPENSATION</td>
<td>$</td>
</tr>
</tbody>
</table>

**SPECIAL NOTES:** (identify any Third-Party Interests, Uneconomic Remainders, Etc.)

Form ROW A 1-15
Example of Sales Data Sheet

<table>
<thead>
<tr>
<th>COMPARABLE SALE #</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
</tr>
</tbody>
</table>

Insert Tax Map Here

Insert Photo Here

<table>
<thead>
<tr>
<th>Sale Price:</th>
<th>$</th>
<th>Unit Price:</th>
<th>$/sf or $/acre</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Land Size:</th>
<th>acres; sf</th>
<th>Tax Map:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Zoning:</th>
<th>Sq Ft:</th>
<th>± sf</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>H&amp;B Use:</th>
<th>Utilities:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Deed Date:</th>
<th>Recorded:</th>
<th>Liber/Page:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grantor:</td>
<td>Address:</td>
<td></td>
</tr>
<tr>
<td>Grantee:</td>
<td>Address:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Revenue Stamps:</th>
<th>$</th>
<th>Mtge./Financing:</th>
<th>Cash or Equivalent</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Verified By:</th>
<th>Date:</th>
</tr>
</thead>
</table>

Comments:
ATTACHMENT 25 – HYPOTHETICAL APPRAISAL PROBLEMS

Hypothetical #1 Information (Not to exceed 2 single-sided pages):

DESCRIPTION OF PROPERTY: The overall subject property contains one Tax Mapped Parcel (123-1-12) of improved commercial land, irregular in shape, located on the southwest corner of the intersection of Franklin Street with Front Street, in the City of Binghamton. The overall property consists of 1.17± acres (50,965± sf.), with 248'± frontage along Front Street, and 370'± frontage along Franklin Street. The topography is at road grade and generally level. The property is improved with a 2-story, 8,800± sf. commercial building, currently used as an auto rental and repair shop. Land improvements include: 8,000± sf garage/storage building, paved asphalt drive and parking in generally very good condition, chain link fence, covered concrete walk, general landscaping, concrete curbing, a decorative fence located in the ROW and large multi-face illuminated sign.

DESCRIPTION OF ACQUISITION: (Reference Appropriation Map). Map 662, Parcel 849, is a 1,251± sf. (0.029± acre), irregular shaped Fee acquisition along 178'± of the frontage on Front Street. The depth of the acquisition ranges from 25'± along Franklin Street, then gradually decreases to a point at the front of the existing building. The topography within this area is at road grade and generally level. Improvements within the acquired area paved blacktop driveway and portions of 3 striped, lighted parking spaces, concrete curb, landscaping and the sign. Also, along the acquisition area on Front Street is approximately 75 LF of privately-owned decorative fence that is located within the ROW and does not serve to enclose the property.

EFFECT OF THE ACQUISITION: Map 662, Parcel 849 appropriates in Fee with access a small (2.45% of the overall parcel), irregular shaped piece of land along 178'± of the Front Street frontage. However, access to the property is not affected at any point. The appropriation cuts through a portion of 3 parking spaces. The business currently has 50 parking spaces which is the minimum number of spaces required by local zoning. Variances have been regularly approved if parking requirements are not reduced by more than 10%. However, there is adequate room on the paved areas for additional parking, plus there is 15,000± sf unpaved area available elsewhere on the property for possible expansion. The landscaped area being acquired is required by the City and provides an overall enhancement to the property. The Fee with access acquisition of this portion of the subject property will not have any negative effect on the access of the remaining property.

Sign: The overall sign consists of several individual double and single faced signs, some illuminated, set on a 16'± tall, 10" painted metal pole. The top (AAMCO) sign is a double-faced illuminated plastic sign, with underground wiring. Additionally, there are four 6' x 3' signs located on either side of the pole. The property has an alternative sign location available.
Sign and Landscaping

Landscaping and concrete curbing
Hypothetical #1 Questions:

1. What privately owned improvements would be compensable?

2. What privately owned improvements are non-compensable?

3. How would you compensate the property owner if he/she wanted to relocate the sign?

4. What approach to value would be used when valuing site improvements?

5. Based on the information provided, what loss may cause indirect damage to the remainder?
HYPOTHETICAL #2 (Not to exceed 2 single-sided pages)

DESCRIPTION OF SUBJECT PROPERTY: The overall subject property contains one Tax Map Parcel 123.1-1-12.1 located near the intersection of County Route 35 and NYS Highway 206, in the Town of Masonville. The overall property consists of a single family, two-story residential dwelling, large barn, garage, and silo. The property has grass, trees, bushes, as well as a small bridge spanning the stream, which sits behind the proposed acquisition area. The property is slightly below grade along Route 206. The overall size of the property is 1,742,400±sf (40± acres) with frontage of 1,679’± along Route 206 and 1,362’± along County Route 35.

HIGHEST AND BEST USE: Residential/Agricultural

Map: 61, Parcel: 113 is a 1,437±sf (0.033±acres) irregular shaped Fee acquisition with 86’± along NYS Highway 206. The Fee area is slightly below road grade. Within the Fee area are overgrown scrub brush, 300 sf of maintained lawn, 50 sf asphalt driveway, and a potable water line suppling water from the house well to the barn. Additionally, there are 2 mature oak trees in the Fee area along with 1 mature oak tree located in the right of way, adjacent to the Fee area. All 3 trees provide shade enhancement to the home.

EFFECT OF THE ACQUISITION: Map: 61 Parcel: 113 appropriates in Fee, 86’± along NYS Route 206. These acquisitions will not affect the access to the property. As a result of the appropriation, there is no change in the overall “Highest and Best Use”, no change in the accessibility, and no change in the utility, or highest and best use of the remaining property.
View of Acquisition Area

Waterline in Acquisition Area
Aerial View of Acquisition Area – Barn is located to the East/Home to the West
Hypothetical #2 Questions:

1. The water line from the well to the barn is essential to the farming activity in the barn. How, in the appraisal, would the property owner be compensated for the waterline?

2. How many trees are compensable?

3. What items in the Fee area are compensable?
HYPOTHETICAL #3 (Not to exceed 4 single-sided pages)

Surplus Property Summary:
Subject is a vacant surplus parcel located on the Northeast corner of NYS Route 14 and Miller Street, in the city of Elmira. The total area of the surplus parcel, as established by Map 325, Parcel 338, is 11,761 ± sf. or 0.27± acres. The surplus parcel is without access to both Miller Street and NYS Route 14. The North and East property line of the surplus parcel is with access to the abutting privately owned properties.

The surplus parcel abuts 2 properties, one on Miller Street and one on Keefe Street. The surplus parcel is landlocked with no legal access therefore could not be developed as a stand-alone parcel. The sale of this parcel to either of the abutters would be a reasonable conclusion and is the most viable transfer option.

Both abutters conform to current zoning and would not be subject to additional zoning restrictions if assembled to either abutter.

Hypothetical #3 Questions:

1. If the Surplus property is assembled with Abutter #1, what methodology would be used to determine the value of the surplus property?
The surplus property request is:

1. A reduction of a permanent easement;
   
   a. The permanent easement was acquired in 1972 and is represented by Acquisition Map 50, Parcel 231 from State Highway Number 1302. This permanent easement is 1.17± acres in size, is a trapezoid shaped parcel spanning from Route 205 to Route 7 with a northerly width of 122′± and a southerly width of 211′±. The permanent easement spans a drainage ditch that has bisected the underlying property.

   b. DOT has agreed to release 0.81± acres, leaving a 0.36± acre 50′± wide strip spanning the drainage pipe and ditch. The intent is for the Department of Transportation to release a portion of the permanent easement to the underlying property owner, retaining a 50′± wide strip encompassing 0.36± acres for drainage purposes spanning from Route 205 to Route 7.

   c. Of these 0.81± acres, approximately 0.2± acres of the proposed release area are located east of the 50′± wide strip, and the remaining 0.61± acres are located to the west of the 50′± wide strip. The released easement area would be split into two sections:

      i. a 0.61± acre section to the southwest of the strip on Tax Map #299.00-1-11.24

      ii. And a 0.20± narrow rectangular easement to the northeast of the retained strip on Tax Map #299.00-1-11.21.

Requestor: Smith Enterprises, LTD, Inc.
Owner of Adjacent Parcels: Smith Enterprises Ltd., Inc.


Notes:

1. NYS DOT has agreed to allow the property owner to install enclosed drainage in the proposed new PE area.

2. The partial release of the PE would allow for a more central location of a commercial building and provide relatively equal parking to the front (east) and rear (west) of the property.
Site Sketch

Combined Tax Map Area: 11.36 acres
with 1.175 acres PE

Combined Usable Area: 9.182 acres
with 0.532 acre PE
Current PE is 1.17 ± Acres
Proposed Release of .81± Acres (In Green)
Remaining PE after release is .36± Acres (In Blue)

The problem of this appraisal is to estimate the fair market value of the enhancement created by the partial release of the Permanent Easement over the two subsections.

Hypothetical #4 Question:

1. What methodology would be used to value the reduction of existing PE?