REQUEST FOR PROPOSALS
NEW YORK STATE DEPARTMENT OF TRANSPORTATION (on behalf of the)
WATERTOWN-JEFFERSON COUNTY TRANSPORTATION COUNCIL
‘CONSULTANT PLANNING SERVICE AGREEMENT (PSA) for WJCTC’
Contract #C037888

RFP Schedule
NYSDOT will attempt to adhere to the following revised schedule with regard to progressing this solicitation:

- **RFP Release Date**: August 26, 2020
- **Pre-Proposal Webinar**: September 3, 2020 at 10:00 AM
- **Question Submittal Due**: September 16, 2020 by 2:00 PM
- **Answers Due/RFP Mod #1 Due**: September 23, 2020 COB
- **Proposals Due**: October 7, 2020 by 2:00PM Eastern Time
- **Proposal Evaluation**: October 8-22, 2020
- **Interviews**: Week of October 19th
- **Recommendation & Designation**: October 29, 2020
- **Final Contract**: November 2020
- **Contract Award**: January 2021
- **Notice to Proceed**: January 2021

Inquiries
Potential responders are advised that under New York State’s procurement lobbying law (state finance law section 139-j), communications regarding NYSDOT’s RFP #C037888 can be made only to the following designated primary contact person:

- Al Hasenkopf, Contract Mgt Specialist II
- New York State Department of Transportation
- Contract Management
- 50 Wolf Road, 6th Floor
- Albany, NY 12232, USA
- E-mail: alfred.hasenkopf@dot.ny.gov
- Phone: 518-457-1560

In addition, communications regarding NYSDOT’s RFP #C037888 can also be made to the following designated second contact person:

- Patty Kappeller, Contract Mgt Specialist II
- New York State Department of Transportation
- Contract Management
- 50 Wolf Road, 6th Floor
All questions concerning this solicitation must be directed only to the RFP’s designated Contact Persons. There will be two question and answer rounds. NYSDOT is not obligated to respond to any late questions (questions submitted after the 2nd round question submittal deadline). However, NYSDOT may choose to respond to late questions should doing such be in the best interest of the state. Responses to all questions of a substantive nature, as well as copies of the questions, will be posted to the NYSDOT web site.

**Pre-Proposal Webinar**
NYSDOT will hold a Pre-Proposal Webinar, where remote participation is optional yet recommended. The agenda shall be going over the RFP and its attachments. Questions can be submitted in advance as well as electronically via the webinar. The Pre-Proposal Webinar shall be held on September 3, 2020 at 10:00 AM. To register for the webinar, please contact: alfred.hasenkopf@dot.ny.gov.

NYSDOT will record the webinar. Answers provided at the webinar shall be recorded; some questions may have to be deferred. Answers to all substantive questions shall be publicly posted onto NYSDOT’s website under this solicitation, and all parties notified via announcement. E-mail notices shall be sent to the e-mail addresses of all parties who officially register their interest in NYSDOT’s RFP #C037888. Only written answers posted on the NYSDOT website will be official. Questions that address possible conflicting information in this RFP will be resolved via formal Modification to this RFP and posted on the NYSDOT website, with all firms expressing interest being notified via e-mail. To be deemed responsive, all firms offering proposals are required to acknowledge receipt of any and all RFP Modifications in writing (by submitting the one-page acknowledgement response form included in the RFP Modification document).

**RFP Modification(s)**
NYSDOT will issue at least one modification to this RFP to release answers to questions and release the list of interested parties. NYSDOT reserves the right to modify conditions or requirements of this RFP with sufficient notice given to all potentially interested parties. All public information releases regarding NYSDOT RFP #C037888 shall be posted to the NYSDOT web site (https://www.dot.ny.gov/portal/page/portal/doing-business/opportunities/consult-opportunities). Firms who express interest in this RFP shall receive an e-mail alerting them to each new RFP information release. Firms are advised to also regularly to check for releases of new RFP information. The final Modification will be posted on NYSDOT’s web site not later than ten business days prior to the proposal due date – **acknowledgement of receipt of any and all RFP modifications is a mandatory requirement**. If any additional modification is required within that ten-day window, the Proposal due date shall be revised such that there will be seven days from the final Modification to the Proposal due date and all parties shall be notified.
RFP Response Form
CONSULTANT PLANNING SERVICE AGREEMENT (PSA) for WJCTC RFP

Please review this RFP for Contract #C037888. Please complete the following information and mail, e-mail, or fax to the NYSDOT address shown below, by the earliest practical date.

______________ WE DO INTEND TO SUBMIT A PROPOSAL

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

Name and Address of Organization (Include Zip Code):

Signature: __________________________ Date: __________________________

Types of Printed Name and Title: __________________________

Telephone: __________________________ Fax: __________________________

E-Mail Address: __________________________

RFP Title: __________________________

Please send to:

* E-Mail: alfred.hasenkopf@dot.ny.gov RE: #C037888

* Regular Mail:
  New York State Department of Transportation
  Contract Management Bureau, 6th Floor
  50 Wolf Road
  Albany, New York 12232
  ATTN: Contract #C037888

* Fax: 518-457-2875
NEW YORK STATE DEPARTMENT OF TRANSPORTATION
REQUEST FOR PROPOSALS
CONSULTANT PLANNING SERVICE AGREEMENT (PSA) for WJCTC
Contract #C037888

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1. INTRODUCTION

1.1 RFP Purpose

The Watertown-Jefferson County Transportation Council (WJCTC), through a contract held by its host, the New York State Department of Transportation (NYSDOT), seeks to retain a responsive, responsible and fully qualified Planning Service Consultant under an FHWA-funded, planning services term agreement.

It is expressly understood that this Request for Proposals does not commit NYSDOT 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, NYSDOT shall have no obligation or liability whatsoever to the vendor selected as a result of this solicitation unless and until a contract satisfactory to NYSDOT is approved and executed by the vendor and all necessary State officials. All management decisions regarding this RFP shall be made by NYSDOT management in consultation with WJCTC management.

1.2 Background

WJCTC is officially designated Metropolitan Planning Organization (MPO) for the Watertown metropolitan area. Federal requirements mandate that WJCTC have and maintain a coordinated planning process that produces several planning products, which serve to frame the region’s transportation planning decision making; WJCTC’s planning process is also required to ensure the region’s continued eligibility to Federal planning and capital funds. WJCTC’s major planning products are: 1) a Long-Range Transportation Plan (LRTP) that maintains a 20-year planning horizon, 2) a short range (three to five year) Transportation Improvement Program (TIP), and 3) an annual Unified Planning Work Program (UPWP). The genesis of all other WJCTC products, including regional forums, public involvement, meetings, working groups, studies, monitoring, analysis, reports, data gathering, and information dissemination efforts can be traced to these mandated products.

1.3 RFP Objectives

PRIME CONSULTANT SELECTION: To select a responsive, responsible and fully qualified Prime Consultant (possibly teaming with specialized subconsultants) using NYSDOT’s Best Value method based on a fair, equitable and thorough examination of proposals submitted in response to the RFP. Consultant are being sought to provide capable personnel to provide planning services to perform and deliver assigned WJCTC UPWP work.

CONTRACT TERM: The base term of this contract will be for sixty (60) months or five contract years commencing from the contract start date with one 12-month term extension (‘shadow term’ to complete any unfinished PSA work with no new work started. The estimated start date for the PSA contract is January 2, 2021.

PAYMENT METHOD: Accepted task assignment work shall be reimbursed via lump-sum budgets with fixed cost milestone payment schedules to deliver the services per the negotiated task assignment using the contracts fully loaded, not-to-exceed, hourly rates.

FEDERAL MPO DESIGNATION: While NYSDOT anticipates that the WJCTC MPO will remain a federally-designated MPO, should WJCTC no longer be a federally-designated MPO after completion of the 2020 decennial census process, the contract resulting from this RFP shall continue to operate per NYSDOT’s discretion until either federal funds authorized for this
contract are no longer available, the maximum authorized term for C037888 has been reached, or NYSDOT terminates C037888 for convenience, whichever occurs first. The Consultant selected for this PSA is expected to be able to provide services to assist WJCTC in fulfilling all current federally required planning products as well as any current and future metropolitan planning program federal requirements established during the timeframe of this agreement including but not limited to the following: Unified Planning Work Program (UPWP) support; Transportation Improvement Program (TIP) support; Long-Range Transportation Plan (LRTP) support; public involvement support; Title VI program support; performance of transportation studies; Transportation Performance Management (TPM) system performance report support; socio-economic and demographic forecast support; Geographic Information System (GIS) support; travel survey support; traffic model and forecasting support; grant support; operations planning support.

DBE GOAL: 12.53% or more total DBE subconsultant participation over the life of the contract by the selected Consultant team. It is intended that DBE participation occur in each task assignment request, as practicable.

2. CIVIL RIGHTS REQUIREMENTS

2.1 Disadvantaged Business Enterprise Participation Requirements

While not indicative of a Proposer’s individual merit (technical excellence, Proposer’s ability, experience, etc.), NYSDOT encourages the participation of certified Disadvantaged Business Enterprises (DBEs) in its solicitations. The level of DBE participation will be relevant to the process of selecting Proposals that will achieve the overall goals of the Department. Please visit the New York Certification Program (NYSUCP) DBE Directory for certified Disadvantaged Business Enterprises via https://nysucp.newnycontracts.com.

For this specific procurement, NYSDOT has established a DBE participation goal of 12.53 percent over the five-year life of the resulting contract. Meaningful participation by either a prime consultant who is certified as a NYSUCP DBE or inclusion of subconsultant(s) who is/are certified as a NYSUCP DBE count towards the DBE participation goal. Meaningful participation is defined as providing commercially useful functions or services. These services should:

- Result in a product or service distinguishable from the Prime Consultant’s product or service or be a part of the services provided by the Prime Consultant;
- Be for scope of service elements which can be and are completely performed, supervised, and managed by the DBE consultant; and/or
- Perform significant tasks which can be considered commercially marketable.

A prime Consultant that is a certified DBE still must make a good faith effort to include DBE subconsultants in their proposal. Participation by a certified DBE prime Consultant does count towards meeting the contract goal.

Since this RFP does not require a budgeted response, a less direct measurement of goal attainment shall be assessed via the proposed RFP Attachment 16 ‘Hypothetical Scenario Response’, which repeats the contract’s 12.53% DBE goal. This goal relates to total cumulative DBE dollars budgeted under contract #C037888 as task assignment work gets added to the term agreement via approved side letters.
Interested proposers should verify their attainment of the 12.53% DBE participation goal by completing and submitting Attachment 9. For participation to count towards the DBE goal set for this solicitation, the offered DBE participating firm must be currently certified by the UCP partners. If the proposal does not meet/exceed the 12.53% DBE participation goal, the firm must provide evidence of a good faith effort by completing and submitting Attachment 10. Provide robust documentation regarding all good faith efforts to obtain the services of qualified, available DBEs.

Additionally, if the firm does not meet the specified goal, the firm must include in its submission a Goal Attainment Explanation Letter explaining why the firm was unable to meet the applicable DBE (in full or if partially), which serves to substantiate the firm’s good faith effort. The letter should include sufficient justification as to why the goal was not met or was met partially and should at a minimum address the following factors:

- the potential firm’s method of accomplishing the work,
- the subcontracting opportunities associated with the proposed approach and scope of services, and
- the availability of certified firms for the work to be performed by either a prime Consultant or via subcontract.

2.2 Minority and Women-Owned Business Enterprise and Service-Disabled Veteran-Owned Business Enterprise Participation Requirements

Not Applicable

2.3 Diversity Practices

Not Applicable

2.4 Title VI Assurance

The New York State Department of Transportation (NYSDOT), in accordance with Title VI of the Civil Rights Act of 1954, 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 of 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 solicitation, request for proposal, or invitation for bid, that it will affirmatively insure that in any contract entered unto 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 award.

2.5 Equal Employment Opportunity

In accordance with New York State Executive Order 162, issued on January 9, 2017, the Consultant shall provide workforce utilization reports in accordance with RFP Attachment 1, Draft Contract.

3. SCOPE OF SERVICES & TASK ASSIGNMENT ROLES

3.1 Introduction/General

TASK ASSIGNMENT TYPES: WJCTC anticipates that task assignment requests will be
initiated per the approved WJCTC Unified Planning Work Program (UPWP). The UPWP may be amended to add projects that can be fulfilled via a Task Assignment Request (TAR). No guarantee of task assignment work can be made. The level of detail and the expected deliverables for each task may vary, yet will be specified per each task assignment request.

Approved task assignments shall be added to the PSA term agreement via side letters. For all tasks assignment requests, Consultants must provide requested planning services and task assignment management with not-to-exceed rates from the term agreement.

To offer prospective consultants a sense, the RFP Attachment 17 provides a compendium of possible requested scopes of services. All task assignment work requested under the resulting PSA term agreement are to be consistent with the intent of these scopes of services.

PROJECT PROGRESS REPORTS: The Consultant shall prepare and submit to Task Assignment Project Manager a monthly progress report on all the tasks underway during the preceding calendar month within 21 calendar days of the end of such month.

CONSULTANT FILES: Each Consultant shall establish and maintain a set of task assignment project work files, one for each assigned project. The Consultant must make these files available to WJCTC and NYSDOT upon written request from WJCTC. The files shall contain handwritten notes, calculation sheets, records of outside contracts, collected data, and any other pertinent information relative to the implementation of this Contract. This is in addition to accounting books and records, including time sheets, payroll registers, ledgers and other records documenting costs associated with this Contract. WJCTC/NYSDOT has the right to ask for and inspect the Contract files anytime during the term of this Contract and three years after termination of this Contract.

3.2 NYSDOT Main Office Support

NYSDOT’s Main Offices shall provide administrative and financial support for task assignments.

3.3 Contract Management

NYSDOT shall work with WJCTC to administer and manage any required actions impacting the C037888 contract (revisions, amendments, etc.). The resulting PSA term agreement shall have an initial total contract value of $1,000,000 which can be increased on an as-needed basis.

3.4 Task Assignment Project Manager (TA PM)

WJCTC and/or NYSDOT shall assign a person to manage the task assignment request process and to oversee the performance of all consultant-provided task assignment project work. The Project Manager will coordinate support from NYSDOT’s Main Office on an as needed basis.

The Project Manager has the responsibility of making sure that communications are facilitated between the Consultant and any involved stakeholders, ensuring that all relevant parties are copied as appropriate. The Project Manager shall track all PSA task assignments from initiation to advertising to award to closeout. An assistant Project Manager may be designated. The Project Manager shall assist NYSDOT Main Office metropolitan planning program financial administrator in keeping track of the funds allocated to this Contract.

A Task Assignment Project Manager (TA PM) will be designated to lead an individual Task Assignment. The TA PM will be responsible for reviewing and accepting all project deliverables
and will be responsible for satisfactorily addressing any and all performance issues which may arise during the delivery of any task assignment project work. The Project Manager and the TA PM shall review all billings submitted by the Consultant for conformance with the approved Task budget, and the work completed and approved.

Any task assignments requiring travel shall be negotiated by both parties.

3.5 Consultant Project Manager

The Consultant shall designate a qualified Consultant Project Manager to manage responding to and completing all assigned project work. This person shall serve as the primary contact between NYSDOT and the WJCTC if needed. The Consultant Project Manager is responsible for the performance of all task assignments approved by both parties, as well as all contractual matters. The Consultant Project Manager shall make all required submittals and receive all transmittals from WJCTC/NYSDOT. WJCTC/NYSDOT may require a copy of the candidate’s qualifications, or an interview with the candidate, or both, at its option. WJCTC/NYSDOT may, at any time, and with reasonable and demonstrated cause, require replacement of the Consultant Project Manager. The Consultant may replace its Consultant Project Manager at any time subject to the provisions of this paragraph and the consultant personnel substitution provision of the term agreement. The Consultant Project Manager and the selected Consultant shall be responsible for ensuring that the replacement of any consultant personnel assigned to a project task assignment are properly qualified and available (NYSDOT shall have the right to review and approve all replacement personnel).

In the event that a task assignment request requires unanticipated specialized skills or expertise not available from any members of the selected Consultant’s team, the Consultants shall research the qualifications and cost of acquiring the services of an additional subconsultant or employee to be added to the task assignment at additional cost.

3.6 Consultant Task Assignment Managers

The selected Consultant shall designate a Task Manager for each requested task assignment (could be the Consultant Project Manager). This person shall serve as the primary contact with NYSDOT and WJCTC for the purposes of initiating, carrying on and completing each assigned task. The Task Manager shall be responsible for negotiating each task to be assigned to the Consultant. The Task Manager will have responsibility for specific direction of the task and schedule, verifying satisfactory completion of the task and keeping all Project Managers adequately informed of task status, including delays and difficulties.

3.7 Task Assignment Locations

It is anticipated that requested Task Assignment services will be remotely performed and provided through the selected Consultant with additional services to be provided within WJCTC’s Metropolitan Planning Area as directed. The metropolitan area includes the City of Watertown and surrounding urbanized areas in Jefferson County.

3.8 Key Personnel Staffing Obligations

NYSDOT reserves the right to approve all Consultant's assignment of key personnel to this Project (via TARs) and to reject personnel deemed unsatisfactory by NYSDOT. The Department expects all proposed personnel will be provided as timely as possible after the Notice To Proceed (NTP); in no such event shall proposing personnel exceed forty (40) business days. All
replacement key personnel shall have comparable or higher technical quality at same or lower cost.

Unless pre-approved in writing by NYSDOT, the Consultant shall not remove or reassign any of the key personnel until such time as the key personnel have reasonably completed all of their planned and assigned responsibilities in connection with performance of the Consultant's obligations under this Contract. The Consultant agrees that the continuity of key personnel is critical and agrees to the continuity of key personnel. Removal of key personnel without written consent of NYSDOT may be considered by the State to be a material breach of the Contract. The prohibition against removal or reassignment shall not apply where key personnel must be replaced for reasons beyond the reasonable control of the Consultant including but not limited to illness, disability, resignation or termination of the key personnel's employment.

3.9 DBE Participation Program

The Consultant agrees to maintain its DBE utilization plan per Exhibit B (RFP Attachment 9) over the full life of the contract. The Consultant and each proposed Subconsultant shall set up an account and report all required DBE utilization information per NYSDOT Consultant Instruction CI-13-02 ‘Implementation of the Equitable Business Opportunity (EBO) Software for Consultant Contracts’ (or CI-13-02’s successor). Additional help and user documentation can be found on NYSDOT’s EBO page via https://www.dot.ny.gov/dotapp/ebo. Also see RFP Section 6.4 ‘Registration with Equitable Business Opportunity (EBO) System’.

3.10 Deliverable Submittal, Review and Acceptance Process

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

**Submittal Process:** The Consultant shall submit an advance deliverable to the assigned WJCTC Task Assignment Project Manager (WJCTC TA PM). An electronic copy is preferred. A final hardcopy may be requested.

**Review Process:**

1. TA PM consults with involved Stakeholders or other involved Parties to develop lists of reviewers and approvers.
2. Electronic copies of the deliverable are distributed to reviewers and approvers.
3. If requested, the Consultant shall schedule a meeting with designated reviewers and approvers to provide a high-level walkthrough of the document to facilitate review.
4. The TA PM may schedule a review meeting with reviewers and approvers. They are notified of the importance of reviewing the deliverable and that it is essential for them to have read and developed comments before the meeting.
5. The Review Meeting may be held. At the meeting, the document may be reviewed page-by-page. Minor in-line changes shall be made using Word’s ‘Track Changes’ feature. Comments shall be inserted into the document where appropriate. The originator of each comment shall be noted. (This may be done on a Pilot basis, with the effectiveness of the process evaluated and a decision made regarding process refinement.)
6. Unless informed otherwise, the TA PM will make every reasonable effort to provide the review comments to the Consultant within at least 14 business days from submittal (more time may be necessary for more complex deliverables). It should be noted that all submittals not received before noon shall be considered to have been submitted the following day.

7. It is expected that the TA PM will receive from the Consultant the revised documents addressing all WJCTC comments within five-to-ten business days (as agreed-upon), unless other arrangements between the TA PM and the Consultant are made.

8. The TA PM may review the revised submittal and return additional comments to the Consultant. The TA PM will make every effort to return such comments to the Consultant within five business days (more time may be necessary for more complex deliverables).

9. The Consultant shall address all comments and resubmit within three business days.

10. The TA PM may complete the “Final Review” within two-to five business days. If there are outstanding issues that remain, resolution of such may involve higher levels of WJCTC management.

Acceptance Process:

1. When the deliverable has been accepted, the Consultant shall be so notified by the TA PM. The Consultant shall submit an invoice via email to the Contract #C037888 Project Manager. Signed hardcopy invoice to follow in regular mail.

2. The Consultant shall forward the invoice to TA PM to confirm the deliverable fulfills contract requirements and has been accepted. The Project Manager will send the invoice to a designated person in NYSDOT Main Office Statewide Planning Bureau for final review.

3. After the review is complete, the Consultant shall submit the invoice along with a statement indicating that the deliverable fulfills contract requirements and has been accepted to NYSDOT Accounting to process the payment.

4. Questions regarding all Consultant-provided services and deliverables shall be governed by the contract (which includes the RFP and the selected Consultant’s proposal).

4. PROPOSAL FORMAT AND CONTENTS

4.1 General

Proposals must be electronically submitted. Send a second e-mail (with no attachments) to inform NYSDOT of your intent to electronically submit your proposal. NYSDOT will acknowledge receipt of both e-mails. Should NYSDOT be unable to receive your proposal via e-mail due to file size restrictions, then an acceptable files transfer method must be used (mySend); NYSDOT will acknowledge receipt of proposals submitted via an alternative file transfer method. 12 point font is requested. Keep proposals concise.

For the purposes of evaluation, each proposal must be submitted in two separate parts: the Technical and Management proposal and the Cost and Administrative Proposal. Each part of the proposal must be complete in order that the evaluation of both parts can be accomplished.
independently and concurrently and the Technical and Management submittal can be evaluated strictly on the basis of its merits. **Cost information is not to be included in the Technical submittal.** Web links, photographs, and illustrations (except for the organizational chart) are not to be included unless specifically required. Any referenced information found via web link must include very specific navigational directions to reach the referenced information. **DO NOT SUBMIT HARDCOPY.**

Your proposal should follow the format listed below.

**Scanned Signatures.** Original wet signatures are not required. NYSDOT is accepting scanned signatures.

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 pages 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 the Cover Letter.

4.2 RFP Minimum Proposal Responsiveness Requirements

NYSDOT prefers concise and succinct proposals with supporting details and additional information backing up significant statements and offers. The Firm may include such additional information or data as long as such meets all of the project’s objectives or provides additional information in support of responding to the RFP.

Any Firm which submits a proposal that does not provide all the following by the RFP deadline may be determined to be non-responsive (any proposals deemed to be non-responsive shall be removed from further consideration prior to the technical evaluation of proposals):

1. Complete Technical & Management Proposal per RFP Table 1
2. Complete Cost & Administrative Proposal per RFP Table 2
3. Submission of competed Procurement Lobbying Forms (Attachment 5)
4. Proposals are required to use 12 point font or larger, except where necessitated for readability of tables or special graphics. Twelve point fonts are preferred. Proposals which are substantively in smaller fonts will be rejected. It is requested that proposals be as concise as possible.

4.3 Technical and Management Proposal Submission Requirements

Submittal of a responsive and complete Technical and Management proposal shall contain the following:

<table>
<thead>
<tr>
<th><strong>TABLE 1</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Technical and Management Proposal Submittal Checklist</strong></td>
</tr>
<tr>
<td><strong>Packaging Requirements:</strong></td>
</tr>
</tbody>
</table>

8
A complete softcopy of your Technical & Management proposal must be electronically submitted to NYSDOT. Hardcopy is no longer accepted. All copies must be in current MS Office compatible formats (Word and PDF formats). Proposers shall send an email to Al Hasenkopf (alfred.hasenkopf@dot.ny.gov) with their intent to submit their proposal electronically at that time. NYSDOT Contract Management will then send the proposer an invitation to NYS’s mySend app (https://mySend.ny.gov/nys) so the proposer can upload their RFP submission files to the mySend site. Acknowledgement of proposal receipt via e-mail shall be sent to the proposer to confirm NYSDOT’s successful receipt of electronic proposal submittal.

E-mail Subject: “C037888 PSA Technical Proposal”. Include electronic signature block of authorized officer.

Technical & Management Proposal Submission Requirements:

- **Title Page**
  - Provide a Title Page which lists name, address and phone number of the proposer, and the name, title, address, email, and telephone number of person(s) with official authority to negotiate, bind the company to a contract, and who may be contacted during the procurement process. The title page should read: “C037888 Consultant Planning Service Agreement (PSA) for WJCTC RFP Technical & Management Proposal”.

- **Table 1**
  - Provide a completed Table 1 Technical & Management Proposal Submittal Checklist

- **Cover Letter**
  - Signed Cover Letter on official business letterhead.
  - Signature must be from an official authorized to bind the offeror to all of the RFP’s provisions.
  - Name, mailing and e-mail address and telephone number of proposer.
  - Name of person(s) who prepared proposal.
  - Contact person(s), e-mail address and telephone number.
  - Identify and address any confidential and proprietary information in this section.
  - If there are multiple offices of the Consultant, indicate which one will be primarily responsible for the contract.
  - Indicate which other offices are also involved.
  - Full legal names of all Subconsultants/DBEs.

- **Table of Contents**
  - Identify each major section and page numbers
### Approach
Describe the approach for performing the work and accomplishing the RFP’s objectives. Provide brief, concise descriptions of relevant, similar work done to support WJCTC’s metropolitan transportation planning work (per its annual UPWP) or other relevant, related transportation planning work. Talk about your ability to reasonably provide qualified consultant personnel when responding to task assignment requests and your ability to ensure that all consultant personnel assigned to a task assignment are available to provide requested support services in a time frame which meets the task assignment’s schedule. Be sure to include a discussion of ensuring qualified personnel from DBE firms also get an opportunity to participate to meet the 12.53% DBE goal over the life of the contract. Provide a discussion on the important issues involved in the implementation of this effort. Include enough substantive discussion to demonstrate an understanding of WJCTC’s metropolitan planning objectives, understanding of NYSDOT’s contract objectives and familiarity with applicable laws, rules, etc.

### Project Management
Provide an organizational chart showing the names of proposed Key Personnel (Consultant Project Manager). Discuss your plan for maintaining quality personnel over the contract’s five-year term. Discuss your plan for maintaining DBE participation over the life of the resulting contract.

### Experience
Provide relevant Firm Experience (via completed Attachment 11) Provide relevant Consultant Project Manager experience and expertise (via completed Attachment 12). Via Attachment 12, provide qualifications for all consultant personnel to respond to task assignment requests.

### Complete and Submit Attachment 16 Hypothetical Scenario Response

### Relevant Company and Product Literature
Provide any applicable, relevant brochures, white papers, technical specifications, etc., as supplemental information to help illustrate your company’s capabilities, products, and offerings (product/service tiers, licensing options, etc.). Documentation should not exceed one hundred (100) double sided pages. These additional documents can either lie in between the covers of your technical proposal or be separate documents (if separate, please include RFP title identifier on each). Please make sure all additional documentation is referenced in your Table of Contents.

#### 4.4 Cost and Administrative Proposal Submission Requirements
Submittal of a responsive and complete Cost and Administrative proposal shall contain the following:

**TABLE 2**

<table>
<thead>
<tr>
<th>Cost and Administrative Proposal Submittal Checklist</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ A complete softcopy of your Cost &amp; Administrative proposal must be electronically submitted to NYSDOT. Hardcopy is no longer accepted. All copies must be in current MS Office</td>
</tr>
</tbody>
</table>
compatible formats (Word, Excel and PDF formats). Proposers shall send an email to Al Hasenkopf (alfred.hasenkopf@dot.ny.gov) with their intent to submit their proposal electronically at that time. NYSDOT Contract Management will then send the proposer an invitation to NYS’s mySend app (https://mySend.ny.gov/nys) so the proposer can upload their RFP submission files to the mySend site. Acknowledgement of proposal receipt via e-mail shall be sent to the proposer to confirm NYSDOT’s successful receipt of electronic proposal submittal.

| E-mail Subject: “C037888 PSA Cost Proposal”. Include electronic signature block of authorized officer. |

Cost and Administrative Proposal: Cost Section Submission Requirements:

- Include Table 2: Cost & Administrative Proposal Submittal Checklist
- Include a copy of the Cover Letter (same as provided in the Technical Proposal)
- Complete and submit Attachment 13 Cost Proposal (Fully Loaded Hourly Rate Schedules)

Cost and Administrative Proposal: Administrative Section Submission Requirements:

- Complete and submit Attachment 4 Acknowledgement of Receipt of RFP and RFP Modifications as instructed
- Complete and submit Attachment 5 Procurement Lobbying Law Compliance Forms. These forms are REQUIRED either with the RFP Response Form. Submission of completed PLL forms is a MANDATORY requirement for Proposal submission
- Prime Consultant: Complete and submit Attachment 6 Consultant Information and Certifications (sign both Sections II and III). Complete and submit Attachment 6A Subconsultant Information (one for each proposed Subconsultant)
- Complete and submit Attachment 7 Certification of Non-Collusive Bidding (MANDATORY REQUIREMENT)
- Include a completed Attachment 8 Vendor Assurance of No Conflict of Interest or Detrimental Effect (MANDATORY REQUIREMENT)
- Include a completed Attachment 9 DBE Participation Information Form
- Include a completed (if applicable) Attachment 10 DBE Subconsultant Participation Solicitation Log AND Letter of Explanation of Non or Partial DBE Goal Attainment (As Applicable)

Cost and Administrative Proposal: Cost Section Submission:

Submit a Cost Proposal following all instructions provided in Attachment 13.

NYSDOT reserves the right to clarify any aspects of a bidder’s cost proposal, including through a best and final offer request. During contract negotiations with the selected Consultant, NYSDOT reserves the right to petition for revisions to proposed fees, costs and rates.

Attachment 13 presents your proposed five-year schedule of fully-billed billing rates by key personnel by firm, which will be formally included in Schedule B of the resulting contract. Instructions are presented in this attachment.

Fully-Loaded Hourly Rates (Exhibit 1). Complete and submit Exhibit 1. The RFP requires all proposers to submit fully-loaded labor rates for each proposed Key Personnel by Firm for contract’s year one only. Rates for contract years two through five shall not exceed two percent (2%). Beyond contract year five, year-to-year rate adjustments shall be limited to the lower of either the Producer Price Index (PPI) as published by the U.S. Department of Labor,
Bureau of Labor Statistics, or two percent (2.0%), subject to current market conditions. The rate adjustment will be effective on the month the contract’s term begins and shall be calculated using the Index from the previous fourth month (using Series ID PCU5413--5413--Architectural, engineering, and related services; for reference: http://data.bls.gov/timeseries/PCU5413--5413--?data_tool=XGtable). If at any time the above Index Series ID is discontinued or becomes unavailable, the State reserves the right to implement a comparable Index. If the actual start of the Contract is substantially different than the above estimated date, then the effective date for the rate adjustment will be similarly changed by written supplemental agreement. The State reserves the right to negotiate an alternative rate adjustment than stated above for the additional extension periods, providing such is in the state’s best interest.

Present one set of Exhibit 1’s for each Firm in your proposed Consultant team.

Direct Labor Rate: Present one proposed not-to-exceed hourly labor salary rate by job title. Proposed job titles based on the services listed in Attachment 17 ‘Compendium of Scopes’. It is not necessary to specify names for each job title. The proposed schedule of job titles by Firm shall be used to estimate cost of labor for consultant personnel to be assigned to future task assignment work. Provide labor rates for any anticipated non-key personnel (by job title). Propose experience-based divisions within a job title series (e.g., Planner 1, Planner 2, Planner 3, etc., with increasing levels of expertise.

Consultant Home-Based Overhead: Present an appropriate overhead rate for each title. NYSDOT reserves the right to audit a firm’s proposed home-based overhead rate, which may be subject to negotiation. Submission of field overhead rates is not applicable.

Fee: Per NYSDOT policy, a firm’s fee cannot exceed 10%.

Travel Costs and Direct Non-Salary Expenses: Do not propose any direct non-salary costs. Task Assignment-specific direct non-salary costs shall be estimated and agreed-upon as each Task Assignment gets fully negotiated. Travel shall only be a permissible contract charge only when directed and agreed-upon by WJCTC and/or NYSDOT. All costs associated with directed travel shall not be included in your proposal; instead costs for all directed travel shall be budgeted into each Task Assignment. Reimbursement for travel and such related expenses shall be reasonable. Routine commuting costs are not allowed and are not eligible for reimbursement. Any reimbursement for travel, meals and lodging shall be limited to the prevailing maximum rates established by the NY State Comptroller: http://www.gsa.gov/.

Additional Subconsultants: Additional subconsultant firms can be added to Exhibit 1 by the following process: As part of a Task Assignment response, should the requested work require additional knowledge, skills and abilities not currently in the contract, the Prime Consultant shall propose additional consultant key personnel to be reviewed and approved by WJCTC and/or NYSDOT (documented in the side letter). NYSDOT’s review requires reasonableness of cost to be established with commensurate qualifications (supported by concise resumes and project experience attestations).

Task Assignment Budgets: Establishment of each Task Assignment’s budget shall be negotiated and governed, in part, by estimates of the cost of labor Attachment 13’s rate schedules (Exhibit 1). Reasonable estimates of direct non-salary expenses shall also be negotiated and added to each Task Assignment’s budget. Each Task Assignment budget shall deliver all requested services per an agreed-upon milestone payment schedule, by task, by subtask and/or by deliverable (as
applicable). Task Assignments shall be added to the contract via side letters, which shall keep cumulative track of total contract value life to date as well as total DBE goal attainment life to date.

Payment Process: The selected Consultant will designate a Billing Representative who will be responsible for resolving any invoicing issues during the term of the contract. Payment for services provided under agreed-upon Task Assignment shall be per each Task Assignment’s payment schedule. Such payments usually are provided milestone-schedule based via firm fixed Task Assignment payment schedules (by task and/or by subtask).

Requests for 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 the Task Assignment 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 (which may be waived and substituted with scanned signed copy). The Task Assignment Project Manager shall coordinate payment processing with an appropriate NYSDOT Main Office personnel. The last and final payment will become due and payable within thirty (30) days after delivery of the final deliverable(s).

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

Cost and Administrative Proposal: Administrative Section Submission:

The second section of your Cost Proposal shall be the Administrative Section, consisting of completed RFP Attachments 4 through 10. Additional supporting information is presented below.

Attachment 4 Acknowledgement of Receipt (Form OAR; Mandatory Requirement)
Complete and submit Attachment 4, which will be administratively evaluated during the procurement process. It is a mandatory RFP requirement that all proposers acknowledge receipt of each RFP Modification released. Do not include any released RFP Announcements.

Attachment 5 PLL Forms (Mandatory Requirement)
The Cost Proposal shall include a completed Attachment 5 Procurement Lobbying Law (PLL) Compliance Forms (Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b) and Offerer Disclosure of Prior Non-Responsibility Determinations). These forms are required with the RFP Response Form or if you do not submit an RFP Response Form then the PLL forms are required with the Proposal. These forms are also available at: https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions (Compliance Procurement Lobbying Law). Note: Failure to submit the completed PLL forms with your proposal will result in elimination from consideration for contract award.

Attachment 6 Prime Consultant Information & Certifications (Mandatory Requirement)
Offerors shall complete and submit RFP Attachment 6 which will be administratively evaluated during the procurement process. To indicate consultant’s acceptance of all of the terms and
conditions contained in the RFP’s draft Contract (Attachment 1) and to certify RFP requirements, consultant shall sign Attachment 6 and present requested information about the proposing Prime Consultant, as required by Attachment 6. Attachment 6 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 180 days, and a statement that, if awarded the contract, the offeror will comply with all the requirements of the RFP including 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. After proposal submission, no exceptions to any of the RFP’s draft contract’s terms and conditions will be entertained by NYSDOT. Conditional bids will be deemed non-responsive. Failure to accept the RFP’s draft contract is an automatic condition of non-award. Firms are encouraged to fully examine the RFP’s draft contract. Firms have the opportunity to submit qualified questions regarding the RFP’s draft contract before proposal submission. NYSDOT will carefully examine questions posed regarding the RFP’s draft contract, with the notion of entertaining only those changes to the RFP’s draft contract which are in the State’s best interest.

Attachment 6A Subconsultant Information
Offerors shall complete and submit RFP Attachment 6A (one for each proposed SubConsultant) which will present requested information about proposed Subconsultants and will be administratively evaluated during the procurement process.

Attachment 7 Certification of Non-Collusive Bidding (Mandatory Requirement)
Offerors shall complete and submit Attachment 7 which will be administratively evaluated during the procurement process. All Bidders must submit an attestation that there was no collusion with other bidders. Firms shall also identify any partnerships or corporations to which they belong.

Attachment 8 Vendor Assurance of No Conflict of Interest or Detrimental Effect (Mandatory Requirement)
Offerors shall complete and submit Attachment 8 which will be administratively evaluated during the procurement process.

Attachment 9 DBE Participation Information Form and (IF APPLICABLE) Attachment 10 DBE Subconsultant Participation Solicitation Log and Letter of Explanation of Non or Partial DBE Goal Attainment (See RFP Section 3.1)
Offerors shall complete and submit RFP Attachment 9, which will be administratively evaluated during the procurement process. See RFP Section 3.1 regarding instructions for submission of as-applicable Attachment 10.

Firms are advised to refer to RFP Section 5.1 for the procedure the Department will follow in evaluating a firm’s proposed DBE participation.

4.5. Proposal Submission
Your proposal must be electronically received by NYSDOT by 2:00 PM on October 7, 2020. A complete softcopy of your Technical and Management proposal as well as a complete softcopy of your Cost and Administrative proposal must either be e-mailed to alfred.hasenkopf@dot.ny.gov or received by Mr. Hasenkopf via https://mysend.ny.gov/nys. In addition, a labelled thumbdrive containing an identical, complete softcopy of your Technical and
Management proposal as well as an identical, complete softcopy of your Cost and Administrative proposal must be physically mailed to Mr. Hasenkopf’s attention via: NYSDOT Contract Management, 50 Wolf Road, 6th floor, Albany, New York 12232 address by 2:00 PM on October 7, 2020. NYSDOT will acknowledge receipt of your e-mailed proposal.

5. PROPOSAL EVALUATION PROCESS

5.1 Receipt of Proposals/Pre-Screening

It is NYSDOT’s sole discretionary determination as to whether a proposal is complete. Proposals which do not meet the RFP’s Minimum Responsiveness requirements (RFP Section 2) may be deemed incomplete and non-responsive. Proposals deemed to be non-responsive shall be removed from further consideration.

Proposal Due Date. All proposals must be received by NYSDOT Contract Management by 2:00 PM on October 7, 2020. Any proposals received after that time/date shall not be evaluated further but shall become NYSDOT property.

Proposal Opening, Log-in and Certification. Proposals received on or prior to the proposal due date and time will be opened, inventoried for completeness, certified, and logged-in (per criteria listed in RFP Section 4). For proposals received before/on the due date, firms may receive clarification questions/requests based upon the response completeness checks, with any requested clarification information due back to NYSDOT by COB that same day.

PreScreening (DBE Review). Once logged in, NYSDOT will pre-screen each proposal to ensure all contents have been submitted in accordance with the minimum proposal requirements as specified in the RFP. It is NYSDOT’s sole discretionary determination as to whether a proposal is complete. Proposals which meet the RFP responsiveness requirements shall be considered further; proposals which do not meet the RFP responsiveness requirements may be deemed non-responsive. Proposals deemed to be non-responsive shall be removed from further consideration. DBE submissions shall be checked, wherein the certification registration status of all offered DBE subconsultants will be verified by NYSDOT Contract Management, and if certified, accepted. Proposers with non-certified DBEs will receive a clarification response and be given one opportunity to clarify their proposal (per USDOT/FHWA’s Administrative reconsideration’ process). Offered clarifications will be considered by NYSDOT. Offerors with acceptable DBE submissions will receive a recommendation to have their full proposals proceed further in the evaluation process.

Proposals passing pre-screening shall then be evaluated by NYSDOT using a Best Value Method which considers a combination of technical and cost criteria as described below. Technical considerations are of greater importance than cost considerations; however, cost is a significant factor in NYSDOT’s evaluation of proposals.

5.2 Evaluation Category Weight Distribution

Proposals will be evaluated using the NYSDOT’s Best Value method based upon a 100 total point scale. The Technical and Management proposal will be evaluated and point scored which shall represent 70 points of the total Best Value score for the proposal. The cost portion of the
Cost and Administrative portion will be point scored and will represent 30 points of the total Best Value score for the proposal. Technical evaluation is further divided into 60 points for written technical proposal evaluation with 10 points for interview evaluation. All firms offering responsive proposals will be interviewed. The RFP does not feature shortlisting. The administrative section of the Cost and Administrative portion will not be point scored but will be evaluated for compliance with the RFP’s submittal instructions. A more detailed breakdown of the RFP’s proposal evaluation category weights follows.

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

Evaluators shall examine, evaluate and score written Technical and Management proposals individually. Each evaluator shall measure the degree of responsiveness of each proposal’s responses to the specifications and requirements contained in the RFP against the following weighted evaluation factors. Evaluators shall convene as a group to discuss proposals, firm by firm, factor by factor, and may revise scores on the basis of group discussion.

1. Experience (Up to 25 points)
   a. Firm Experience: Quality, extent and relevance of current and prior experience of the Prime Consultant and all proposed Subconsultants. (Up to 11 Points)
   b. Key Personnel Experience: Quality, extent and relevance of project-relevant experience, education and training of proposed Consultant personnel per the specifications contained in the RFP. (Up to 14 Points)

2. Project Management (Up to 10 points)
   a. Quality of proposed project management including project organization (Up to 5 Points)
   b. Quality of plan for maintaining availability of qualified personnel over life of contract. (Up to 3 Points)
   c. Quality of DBE participation plan. (Up to 2 Points)

4. Objectives (Up to 5 Points)
   a. Degree to which proposal reflects understanding and comprehension of the RFP’s scope and objectives (Up to 3 Points)
   b. Quality of approach to accomplish the RFP’s objectives. (Up to 2 Points)

5. Hypothetical Scenario Scoring: (Up to 20 points)
   a. Approach and Scope: (Up to 9 Points)
      i. Quality of approach, scope and schedule. (Up to 2 Points)
      ii. Reasonableness of staff allocations. (Up to 2 Points)
      iii. Reasonableness of hours proposed. (Up to 2 Points)
      iv. Understanding of the significant issues. (Up to 1 Point)
   v. Quality and extent of proposer’s resources relative to the needs of the Task Assignment request. (Up to 1 Point)
vi. DBE goal attainment: Degree to which the Task Assignment response contributes towards meeting the contract 12.53% DBE participation goal. (Up to 1 Point)

b. Budget: (Up to 8 Points)
   i. Accuracy of budget and cost information presented. (Up to 4 Points)
   ii. Reasonableness of proposed milestone payment schedule. (Up to 3 Points)
   iii. Violation of the rate exceedance rule. (Up to 1 Point [PASS/FAIL])

c. Experience of Proposed Personnel: Quality, extent and relevance of experience, education and training of key personnel to be assigned to the task (re-provide relevant excerpts from the resumes of proposed key staff highlighting directly relevant experience). (Up to 2 Points)
   b. Experience of Firm: Quality, extent and relevance of current and prior experience of the firm(s) applicable to the scenario. (Up to 1 Point)

Reference Checks.
Reference checks (to verify offered experience) may be required to complete the evaluation of technical proposals. In cases where Evaluators are unfamiliar with a firm’s work or NYSDOT does not have prior consultant performance documentation, an Evaluators may request verification of a firm’s offered references. Subject references shall be contacted by NYSDOT Contract Management using its standard reference check questionnaire (with possible appropriate modifications), adjusting that per the RFP. Reference check feedback will be forwarded to the requesting Evaluator for further experience evaluation consideration.

Written Technical Proposal Clarifications.
Proposers responding to this RFP are not allowed to change their technical proposal. However, proposers may be requested to clarify issues or to provide additional insights into their written technical proposal through orally-presented clarification questions during the interviews. NYSDOT reserves the right to seek orally-presented clarifications from firms submitting proposals in order to assure a full understanding of their responsiveness to the solicitation’s technical requirements only during the interview.

5.4 Cost Proposal Evaluation (Up to 30 Points)
Cost proposals will be evaluated and point scored to account for up to 30 points of a total best value score for each proposal. Cost proposals will be evaluated for cost impact after applying a consistently-applied rate usage factor. In addition, proposed rates shall be examined for the following (which may lead to adjustment requests via a best and final offer request):
   - Reasonableness of salary rates as compared to comparable NYS Labor categories and past work under a NYS or a NYSDOT contract
   - Reasonableness of home-based overheads
   - Reasonableness of fee

The calculation of a cost score will be determined via the following rate-based method which uses an assumed hour factor applied to all proposed personnel rates (direct non-salary expenses are not a part of this examination):

1. Multiply all fully-loaded hourly rates a factor of 20 hours per rate for all firms on the
Prime Consultant’s proposed team.

2. Add the derived labor cost for all proposed rates to generate total derived labor cost by firm.

3. Add all total derived labor cost for all proposed firms to generate derived total proposed labor cost.

4. The proposal offering the lowest total derived labor cost shall receive a cost proposal score of 30.00 points. All other higher total derived labor costed proposals will receive proportionally lower cost proposal scores.

5.5 Initial Best Value Determination

Cost scoring results will be added to the initial average written technical proposal scores to generate an initial best value score by firm. Firms shall be ranked in initial best value score order (highest to lowest).

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

5.6 Interview Evaluation (Up to 10 points)

Firms invited to attend the interview shall receive an appointment with the following agenda (up to 90 minutes):

1. Introductions (5 minutes)
2. Consultant Project Management Overview (10 minutes)
3. Presentation of Hypothetical Scenario Response (40 minutes)
4. Evaluator Question and Answers (up to 30 minutes)
5. Closing Remarks (5 minutes)

Due to the on-going COVID-19 pandemic, all participants shall remotely participate in the WebEx interview, which may be scheduled during a 9:00 AM to 5:00 PM window and held two per day during the week of October 19th. Each interview, at a minimum, shall be ninety minutes in duration. Vendors participating in each demonstration shall register all attendees in advance. The WebEx webinar will be set up and recorded by NYSDOT with presenter control handed off to the prime consultant during agenda items 2 and 3.

Evaluators shall examine, evaluate and score the interview individually. Using the evaluation factors listed below, each evaluator shall measure the degree of responsiveness of each interview features against the weighted evaluation factors listed below. Proposers may be requested to clarify issues or to provide additional insights into their written technical proposal through orally-presented clarification questions during the interviews. NYSDOT reserves the right to seek orally-presented clarifications from firms submitting proposals in order to assure a full understanding of their responsiveness to the solicitation’s technical requirements only during the interview. Evaluators shall convene as a group to discuss interview evaluation results by firm by factor, and may revise scores on the basis of group discussion.

Interview evaluation. (Up to 10 Points)

1. Quality of hypothetical scenario presentation. (Up to 5 Points)
2. Consultants’ team chemistry; Consultant’s team’s coordination. (Up to 3 Points)
3. Ability of the presenting consultant team to address and answer Evaluator Clarification Questions (Up to 2 Points)

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

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

Should any firm withdraw their proposal after a possible BAFO request, NYSDOT will remove that firm’s technical and cost information from the Best Value evaluation documentation and shall recalculate the remaining field’s technical and cost scores (without the withdrawn firm’s information, which could impact and lead to revisiting final best value determination).

5.8 Final Best Value Determination

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

5.9 Consultant Selection Recommendation & Tentative Contract Award

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

Should negotiations with the top Best Value Consultant fails to produce an agreed-upon contract, then NYSDOT Executive Management will designate and award a contract to the next highest-ranked Best Value Consultant (should such a firm be listed on the final best value listing). The Department will then enter into negotiations with the next available highest-ranked Best Value Consultant. This process may repeat itself until acceptable contracts are consummated. The consultant designation becomes final after the NYS Office of the State Comptroller approves the resulting contracts.

At the conclusion of the proposal evaluation process, an announcement of NYSDOT’s designation will be posted the ‘Consulting Services’ listing on NYSDOT’s website via: https://www.dot.ny.gov/business. All proposers will be notified in writing regarding the results
from the solicitation. All non-designated firms participating in this RFP process will be offered an opportunity to request an over-the-telephone debriefing. A debriefing is limited to a review of how your proposal fared against the RFP’s requirements. Firms have up to 15 calendar days from receipt of consultant selection notice to request a debriefing in writing form the RFP’s designated contact person.

Once the public has been notified of the solicitation’s results, negotiations with the selected Consultant can commence. Each resulting final contract is subject to approval by NYSDOT, the Attorney General, and the Office of the State Comptroller, and is not binding until such approvals are received.

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

5.10 NYSDOT Protest Procedure

NYSDOT has established a protest procedure to be utilized when an interested party challenges a Non-Engineering Consultant designation by NYSDOT. The complete procedure can be accessed via: https://www.dot.ny.gov/main/business-center/consultants/general-info.

6. INFORMATION FOR THE SELECTED CONSULTANT

6.1 Vendor Responsibility

In accordance with the NYS Finance Law, NYSDOT will only make Contract award to Vendors that are determined to be responsive and responsible. All selected Offerors of Contracts valued at one hundred thousand dollars ($100,000 USD) 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 one hundred thousand dollars ($100,000 USD) or more is required to submit Vendor Responsibility Questionnaire through the Office of the State Comptroller website.

6.2 Registration with NYSDOT

Firms entering into Contracts with the New York State Department of Transportation (NYSDOT) as prime Consultants, joint venture partners, Subcontractors, or subconsultants, are required to electronically register their firm using the Consultant Selection System web application (CSSWeb). All 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 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 E-Mail at css@dot.state.ny.us or by telephone at 518-457-2600.

6.3 Registration with Statewide Financial System (SFS)
Should this solicitation lead to a designation, the Prime Consultant 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, an 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.

6.4 Registration with Equitable Business Opportunity (EBO) System
NYSDOT is required to collect and report on compliance with Federal and State civil rights regulations for construction and consultant contracts via the Equitable Business Opportunity (EBO) software (replaces Form AAP-7). Each consulting firm (both prime consultant and subconsultants) will have to obtain an account to use the EBO application. Additional help and user documentation can be found at NYSDOT EBO page (www.dot.ny.gov/dotapp/ebo). Instructions for obtaining the required EBO account can be found at the EBO Instruction for Obtaining Login/Password page (www.dot.ny.gov/dotapp/ebo/instructions). One master account will be issued to each consulting firm. Each consulting firm will have the ability to create additional sub user accounts for individuals to facilitate the use of EBO by multiple employees. These user accounts will be used to access the EBO application. The Prime Consultant will acknowledge payment by NYSDOT and show payments to subconsultants while the subconsultants will acknowledge receipt of payment from the prime consultant. For more information, please see NYSDOT CI-13-02 via: https://www.dot.ny.gov/main/business-center/consultants/architectural-engineering/consultant-instructions/technical-requirements.

6.5 Consultant Employment Disclosure Requirements of this Project
To become familiar with Consultant Employment Disclosure requirements, which went into effect June 19, 2006, go to the Office of the State Comptroller’s (OSC) website (http://www.osc.state.ny.us/procurement/consultantdisclosure.doc). Upon Contract signature, the Consultant selected for this solicitation shall be required to complete and submit Form A (“State Consultant Services – Contractor’s Planned Employment”) which can be found on the OSC website. For each contract year thereafter, the Consultant shall complete and submit Form B (“State Consultant Services Contractor’s Annual Employment Report”). Copies of the completed Form B shall be submitted 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.

6.6 Insurance Requirement of this Project
Please carefully read the terms and conditions of the draft Contract appended as **Attachment 1** Draft Contract 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 selected as a result of this solicitation and will not be waived.

6.7 Contractor Tax Certification
Per Section 5-a of the NYS Tax Law, all Vendors selected for Contracts in excess of one hundred thousand dollars ($100,000 USD) 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. Firms should make themselves familiar with these forms by visiting the following websites:


6.8 Executive Order 177
In accordance with Executive Order No. 177, the selected Consultant shall be is required to certify via completion and submission of **Attachment 3 EO177 Certification** 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. Do not submit **Attachment 3** in your proposal – for informational purposes only; only for the selected

7 ATTACHMENTS
Attachment 1. Draft Contract

NEW YORK STATE DEPARTMENT OF TRANSPORTATION

F.A. No.: _____________________    PIN: _______________

COMPTROLLER’S CONTRACT NO.: C037888

PROJECT TITLE: CONSULTANT PLANNING SERVICE AGREEMENT (PSA) for WJCTC

This Contract made pursuant to Section 14 of the Transportation Law, by and between THE PEOPLE OF THE STATE OF NEW YORK (hereinafter referred to as the “STATE”) acting by and through the Department of Transportation (hereinafter referred to as the “DEPARTMENT” or “NYSDOT”) whose office is at 50 Wolf Rd, Albany, NY 12232, and

Consultant Firm Name
Consultant Firm Address
Consultant Firm Address

(hereinafter referred to as the “Consultant”)

WITNESSETH:

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

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

ARTICLE 1 – PERFORMANCE OF WORK

The CONSULTANT shall perform all of the work described in SCHEDULE A and cause such work to be performed in an efficient and expeditious manner and in accordance with all of the terms and provisions of this CONTRACT. 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 CONTRACT. The CONSULTANT’S Project Manager shall have the responsibility for the overall supervision and conduct the work on behalf of the CONSULTANT and that the persons described in SCHEDULE A shall serve in the capacities described herein. Any change of key personnel by the CONSULTANT shall be subject to the prior written approval of the STATE. The STATE reserves the option to extend
the terms and conditions of this CONTRACT to any other state agency in New York subject to the approval of all necessary state officials.

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

ARTICLE 2 – DOCUMENTS FORMING THE CONTRACT

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 CONTRACT as set forth in Appendix A, Appendix A-1, Appendix B, Appendix C, Appendix D, Schedule A (including Exhibits), Schedule B (including Exhibits), the DEPARTMENT’S Request for Proposals (RFP, dated August 26, 2020, including any modifications) incorporated by reference, and the CONSULTANT’S Proposal (dated ___, including any clarifications) incorporated by reference.

ARTICLE 3 – ORDER OF PRECEDENCE

In the event of any inconsistencies between or among the provisions and contents of this CONTRACT, 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 CONTRACT as set forth in APPENDIX A-1, APPENDIX B, APPENDIX C, and APPENDIX D;
3. This CONTRACT, including Signature Page, Notary Page, and Exhibits;
4. SCHEDULE A (including Exhibits);
5. SCHEDULE B (including Exhibits);
6. The STATE’s Request for Proposals (including any modifications); and
7. The CONSULTANT’s Proposal.

ARTICLE 4 – TERM OF THE CONTRACT

The CONSULTANT agrees to complete all work of this CONTRACT as required within a five-year base term, which shall commence on _____ and end on ___. The CONTRACT may be extended for one additional year as may be agreed by the parties to the CONTRACT and as approved by the Office of the State Comptroller (OSC).

ARTICLE 5 – MAXIMUM AMOUNT PAYABLE

Item I – The maximum aggregate amount payable by the STATE to the CONSULTANT hereunder for the performance and completion of the work is $1,000,000 unless increased by a CONTRACT AMENDMENT. It is understood and agreed that the STATE will only reimburse the CONSULTANT for approved costs incurred in the performance of authorized project tasks.

Item II – The CONSULTANT specifically agrees that the CONTRACT shall be deemed executory only to the extent of the monies available, and no liability shall be incurred by the
STATE beyond the monies available for the purpose.

ARTICLE 6 – CONTRACT PAYMENT

The CONSULTANT shall provide complete and accurate billing invoices to the DEPARTMENT to receive payment. Billing invoices submitted to the DEPARTMENT must contain all information and supporting documentation required by the CONTRACT, the DEPARTMENT and OSC. 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 the “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: https://www.osc.state.ny.us/vendors/epayments.htm. For assistance, email ePayments@osc.state.ny.us.

ARTICLE 7 – PROVISION FOR PAYMENT

Item I – The State shall pay to the CONSULTANT and the CONSULTANT agrees to accept as full compensation for its services under this CONTRACT payments per the fixed milestone schedule payment schedules in each Task Assignment approved under this CONTRACT.

Item II – The CONSULTANT specifically agrees that the CONTRACT shall be deemed executory only to the extent of the monies available, and no liability shall be incurred by the STATE beyond monies available for the purpose. In no event, however, will monies be deleted from this CONTRACT except pursuant to ARTICLE 17 hereof, entitled Termination.

Item III – If the CONTRACT is extended beyond ___ (enter end date from Article 4) then all salary rates shown in SCHEDULE B, Exhibit 1 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—5416) for the most recent 12-month period as calculated by the U.S. Department of Labor – Bureau of Labor Statistics, or 2%, whichever is lower, all depending upon current market conditions. If at any time the above Index Series ID is discounted or becomes unavailable, the STATE reserves the right to implement a comparable Index.

ARTICLE 8 – PARTIAL PAYMENTS

The CONSULTANT shall be paid in progress payments based on allowable costs incurred during the period in accordance with Article 7 of this CONTRACT established as follows:

Firm Fixed Price Milestone Payment Lump Sum – To be negotiated via approved Task
Assignment Requests added to CONTRACT via Side Letters.

The STATE will make payments to the CONSULTANT in accordance with Section 179(f) of the State Finance Law. Payments are subject to the approval of NYSDOT. Payments shall not be withheld unreasonably.

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

The CONSULTANT shall inform the STATE and all subcontractors/subconsultants of the CONSULTANT’S schedule for submitting monthly vouchers to the STATE, said schedule shall by strictly adhered to by the CONSULTANT.

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/subconsultants within ten (10) calendar days after receipt of payment from the STATE.

All subcontractor/subconsultant vouchers received by the CONSULTANT at least ten (10) calendar days prior to a scheduled billing, shall be included in that billing, even if the CONSULTANT does not have other costs to be billed for that period. The CONSULTANT shall inform the subcontractor/subconsultant of the date the voucher was submitted to the STATE and the amount included for the subcontractor/subconsultant.

ARTICLE 9 – FINAL PAYMENT

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

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

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

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

ARTICLE 11 – EXTRA WORK

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

In the event of any claims being made or any actions being brought in connection with the PROJECT, the CONSULTANT agrees to render the STATE all assistance required by the STATE. Compensation for 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 CONTRACT for the additional services above described, the STATE’s directions shall be exercised by the issuance of a separate contract, if necessary.

ARTICLE 12 – CONSULTANT LIABILITY

To the fullest extent permissible by law, the CONSULTANT shall indemnify and save harmless the STATE, and any municipality, public benefit corporation, railroad, and/or public utility whose property or facilities are affected by the work, from suits, claims, actions, damages and costs, of every name and description arising from the work under its contract during its prosecution and until the final acceptance thereof. The CONSULTANT and any assigns, heirs, or successors in interest shall also indemnify and save harmless, to the fullest extent permitted by law, the inspecting engineer or inspector working for the STATE relative to the PROJECT from suits, claims, actions, damages and costs involving personal injury and property damage arising from the CONSULTANT’S work under the CONTRACT during its prosecution and until the final acceptance thereof. The STATE may retain such monies from the amount due the CONSULTANT as may be necessary to satisfy any claim for damages recovered against the STATE, any municipality and/or public benefit corporation, railroad, or public utility whose
property or facilities are affected by the work or consultant inspecting engineers or inspectors working for the STATE relative to the PROJECT. The CONSULTANT’S obligation under this paragraph shall not be deemed waived by the failure of the STATE to retain the whole or any part of such monies due the CONSULTANT, nor where such suit, action, damages and/or costs have not been resolved or determined prior to release of any monies to the CONSULTANT under the CONTRACT, nor shall such obligation be deemed limited or discharged by the enumeration or procurement if any insurance for liability for damages imposed by law upon the CONSULTANT, Subconsultant or any municipality and/or public benefit corporation, railroad, or public utility whose property or facilities are affected by the work, or for any consultants working for the STATE. It is understood by the STATE and the CONSULTANT that the CONSULTANT’S Professional Liability/Errors and Omissions Policy required in the Article 13 -Insurance of this CONTRACT shall be utilized for claims involving the CONSULTANT’S professional negligence.

The CONSULTANT has the obligation, at its own expense, for the defense of any action or proceeding which may be brought against the parties specified in this Section. This obligation shall include the cost of attorney’s fees, disbursements, costs and other expenses incurred in connection with such action or proceeding. Such obligation to indemnify in the foregoing paragraph does not extend to those suits, action, damages and costs of every name that arise out of this sole negligence of the STATE, or negligence of any municipality and/or public benefit corporation, railroad, or public utility whose property or facilities are affected by the contract work, or the negligence of any consultants working for the STATE, their agents or employees, relative to the construction, alteration, or repair or maintenance of a building, highway, or structure or appurtenances and appliances thereof including moving, demolition and excavating connected therewith. Notwithstanding the foregoing, the parties being defended by the CONSULTANT may elect to join any action or tender their own defense, at their sole expense and discretion.

ARTICLE 13 – INSURANCE

The CONSULTANT shall procure, at its own sole cost an expense, and shall maintain in force at all times during the term of the 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 accompanies by the documentation required by 11 NYCRR §20.7 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 STATE immediately. The STATE will determine whether to issue an order to the CONSULTANT to stop work.
1. Conditions Applicable to Insurance. All policies of insurance required by this CONTRACT must meet the following requirements:

A. Coverage Types and Policy Limits. The types of coverage and policy limits required from the CONSULTANT are specified in Section 2, Insurance Requirements, below. General Liability insurance shall apply separately on a per-job or per-project basis.

B. Policy Forms. Except as may 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 a minimum, it includes provisions that allow for (a) reporting circumstances or incidents that may give rise to future claims and (b) an extended reporting 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 of the ISO-GLC 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 subconsultants, are not acceptable. Policy forms must be provided to the DEPARTMENT upon request.

C. 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, reference Contract #C037888 and the name of the CONSULTANT in the Subject Line, by email to: Insur.consult.contr@dot.ny.gov.

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

Unless otherwise agreed, policies shall be written so as to require that the policy will not be (a) canceled, (b) materially changed, or (c) permitted to expire or lapse for any reason except upon ten (10) calendar 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) business days of such a request a copy of or any or all policies of insurance not previously provided, certified by the insurance carrier as true and complete. Certificates of Insurance shall:

1. 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.

2. Be signed and dated by an authorized representative of the insurance carrier or producer.

3. Disclose any deductible, self-insured retention, aggregate limit.

4. 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 as not been provided, the DEPARTMENT may, at its option:

1. Direct the CONSULTANT to suspend work and not to re-enter the premises with no additional payment or extension of time due on account thereof, or
2. May withhold further contract payments in accordance with Partial Payments, Section §109-04 of the Standard Specification, or
3. Treat such failure as a breach or default of the CONTRACT.

D. Additional Insureds. All insurance policies required by these specifications, except Workers’ Compensation, NYS Disability 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 activities. The endorsement shall be affected 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 for a form(s) that provides equivalent coverage.

E. 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.

F. 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 the CONSULTANT’S policies of insurance prohibit such a waiver of subrogation, CONSULTANT shall secure the necessary permission to make this waiver.

G. 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 such insurance with terms no less favorable to the DEPARTMENT than the expiring policies shall delivered to the DEPARTMENT in the manner required for service of notice in Section C – Certificates of Insurance/Notices above.

H. Self-Insurance Retention/Deductibles. Consultants utilizing self-insurance programs are required to provide a description of the program for DEPARTMENT approval. Collateralized deductible and self-insured retention programs administered by a third party may be approved. Except as may be specifically provided in the CONTRACT documents of a particular project, the CONSULTANT or third-party administered insurance deductible shall be limited to the amount of the bid deposit of $100,000, whichever is less. Security is not required if it is otherwise provided to an administrator
or an approved risk management plan. The DEPARTMENT will not accept self-insured retention programs 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 expenses 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 the DEPARTMENT must be issued by a guarantor or surety with an A.M. Best Company rating of (A-) or better. If, at any time during the term of this CONTRACT, 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 or any or all policies of insurance or, upon failure to promptly do so, the same may be withheld from payments due the CONSULTANT.

I. 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.

J. Subconsultant’s Liability Insurance. In the event 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, NYS Disability Benefits, 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 subconsultant employed by them to do work under this CONTRACT.

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

a. Workers’ Compensation and Disability Insurance. As required by State Finance Law Section 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.

b. 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 tort liability of another
assumed in a business contract) occurring on or in any way related to the premises of 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 no less than $1,000,000 per occurrence and not less than $2,000,000 aggregate. Unless otherwise provided, the policy or policies of insurance providing the liability coverage shall include:

i. Coverage for contractual liability by the CONSULTANT insured under an insured contract (including the tort liability of another assumed in a business contract).

ii. All insurance policies required by these specifications except Workers’ Compensation, NYS Disability Benefits, 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” 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.

iii. 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.

iv. 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.

v. 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.

vi. 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.

c. Commercial Automobile Insurance including liability and required coverage for New York. In the event that automobiles are used in connection with CONSULTANT’S business or operations with the DEPARTMENT, 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.

d. 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, project-completed operations, personal injury and advertising injury, and liability insured under an insured contract (including tort liability of another assumed in a business contract).
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.

e. Consultant’s Risks. The CONSULTANT shall be responsible for obtaining any insurance it deems necessary to cover its own risks including without limitation: (1) business interpretation, such as gross earnings, extra expense, or similar coverage, (2) personal property, and/or (3) 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 CONTRACT, even if such loss is caused by the negligence of the DEPARTMENT.

ARTICLE 14 – INTERCHANGE OF DATA

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

ARTICLE 15 – DISPOSITION OF DATA

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

ARTICLE 16 – 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 CONTRACT. Such delays or hindrances, if any, shall be compensated for by extension of time for such reasonable period as the STATE may decide, it being understood however, that the permitting of the CONSULTANT to proceed to complete any services or any part of them after the date of completion or after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the STATE of any of its rights herein. Nothing in this ARTICLE will prevent the CONSULTANT from exercising its right under ARTICLE 9 of this CONTRACT.

ARTICLE 17 – NOTICE OF BANKRUPTCY, VENUE, AUDITS

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

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

The determination of any rights under this CONTRACT 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, NY.

The CONSULTANT agrees that the automatic stay under 11 USC S362 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 CONTRACT.

ARTICLE 18 – TERMINATION

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

1. If a termination is brought about for the convenience of the STATE and not as a result of unsatisfactory performance on the part of the CONSULTANT, final payment shall be made based on the actual work performed by the CONSULTANT prior to termination, including, but not limited to, the number of hours and other authorized costs audited in accordance with the terms of the CONTRACT.

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

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

ARTICLE 19 – DEATH OR DISABILITY OF THE CONSULTANT

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

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

ARTICLE 20 – INDEPENDENT CONTRACTOR

The CONSULTANT, in accordance with their status as an independent contractor, covenants and agrees that they will conduct themselves consistent with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the STATE by reason hereof, and that they will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the STATE, including but not limited to, Workers’ Compensation coverage, Unemployment Insurance Benefits, Social Security coverage or Retirement membership or credit.

ARTICLE 21 – COVENANT AGAINST CONTINGENT FEES

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working for the CONSULTANT, to solicit or secure this Contract, 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 CONTRACT. For breach or violation of this warranty, the STATE shall have the right to annul this CONTRACT without liability, or, in its discretion, to deduct from the CONTRACT price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE 22 – TRANSFER OF AGREEMENT

The CONSULTANT specifically agrees, as required by State Finance Law, Section 138, that they are prohibited by law from assigning, transferring, conveying, subletting or otherwise disposing of the CONTRACT or of their right, title or interest therein, or their power to execute such CONTRACT, to any other person, company or corporation, without the previous consent in writing of the STATE.

If this provision of the law be violated, the STATE shall revoke and annul the CONTRACT and the STATE shall be relieved from any and all liability and obligations thereunder to the person, company or corporation to whom the CONSULTANT shall assign, transfer, convey, sublet or otherwise dispose of the CONTRACT, except so much as may be required to pay his employees.

ARTICLE 23 – 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 and 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 24 – SUBCONTRACTORS/SUBCONSULTANTS

The CONSULTANT may arrange for a portion(s) of its responsibilities under this CONTRACT to be subcontracted to qualified, responsible subconsultants/subcontractors, subject to approval of the STATE. 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 CONTRACT must be fully explained by the CONSULTANT to the STATE. As part of this explanation, the subconsultant/subcontractor must submit to the STATE a completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form, as required by the CONSULTANT prior to execution of this CONTRACT.

All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of this CONTRACT including, but not limited to, the body of this CONTRACT, Appendix A – Standard Clauses for New York State Contracts, and the advertisement for proposals. Unless waived in writing by the STATE, all subcontracts between the CONSULTANT and subconsultants/subcontractors shall expressly name the STATE, through the DEPARTMENT, as the sole intended third party beneficiary of such subcontract. The STATE 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 STATE a party to any subcontract or create any right, claim, or interest in the subconsultant/subcontractor or proposed subconsultant/subcontractor against the STATE.

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

The CONSULTANT shall give the STATE immediate notice of 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 CONTRACT. Any subcontract shall not relieve the CONSULTANT in any way of any responsibility, duty, and/or obligation of the CONTRACT.

If at any time during the performance under this CONTRACT 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 25 – CERTIFICATION REQUIRED BY 49CFR, PART 29

The signator to this CONTRACT, being duly sworn, certifies that, EXCEPT AS NOTED BELOW, its company, partner, director, officer, or major stockholder (five percent or more ownership):

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
2. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past three (3) years;
3. Does not have a proposed debarment pending; and
4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

EXCEPTIONS:

ARTICLE 26 – CERTIFICATION FOR FEDERAL-AID CONTRACTS

The prospective participant certifies, by signing this Contract, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall completed and submit Standard Form LLL, “Disclosure Form to Report Lobbying” in accordance with its instructions.
3. 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 1342, 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.
4. 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 shall be included in all lower tier subcontracts, which exceed $100,000 and that all such subrecipients shall certify and disclose accordingly.

ARTICLE 27 – RESPONSIBILITY OF THE CONSULTANT
The CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all services furnished by the CONSULTANT under this CONTRACT. The CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its services. However, the STATE may in certain circumstances, provide compensation for such work.

Neither the STATE’s review, approval, or acceptance of, nor payment for, the services required under this CONTRACT shall be construed to operate as a waiver of any rights under this CONTRACT or of any case of action arising out of the performance of this CONTRACT, and the CONSULTANT shall be and remain liable to the STATE in accordance with applicable law for all damages to the STATE caused by the CONSULTANT’s negligent performance or breach of contract of any of the services furnished under the CONTRACT.

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

If the CONSULTANT is comprised of more than one legal entity or any group of partners or joint ventures associated for the purposes of undertaking this CONTRACT, each such entity acknowledges and hereby affirmatively represents and agrees that each has the power to bind the CONSULTANT and each of the others hereunder, and as such, each acts both as principals 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 CONTRACT shall be jointly and severally liable to third parties, including, but not limited to the STATE, for acts or omissions of the CONSULTANT, or any other entity, partner or joint venture hereunder.

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

ARTICLE 28 – SECURITY AND CONFIDENTIALITY OF INFORMATION

Information received as part of this CONTRACT shall be considered Confidential Information. The CONSULTANT warrants that it will take the appropriate steps as to its personnel, agents, officers, and any subcontractors/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 CONTRACT. However, the CONSULTANT shall in no circumstance, communicate with the public or news media without prior authorization from the State’s designee. Neither shall the CONSULTANT disclose information deemed confidential by the STATE nor shall the CONSULTANT disclose any other information obtained or developed in the performance of services under this CONTRACT.
without written authorization of the STATE. This warranty shall survive termination of this CONTRACT.

The CONSULTANT shall comply with the provisions of the New York State Information Security Breach and Notification Act, including General Business Law Section §89-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, the CONSULTANT shall be liable for the costs associated with such breach if caused by the CONSULTANT’s negligence or willful acts or omissions, or the negligent or willful acts or omissions of the CONSULTANT’s agents, officers, employees or subconsultants.

ARTICLE 29 – VENDOR RESPONSIBILITY

The Department of Transportation has undertaken an affirmative review of the 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 CONSULTANT is responsible has been determined.

General Responsibility: The CONSULTANT shall, at all times during the CONTRACT, 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 organization and financial capacity.

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 CONTRACT at any time when he or she discovers information that calls into question the responsibility of the CONSULTANT. In the event of such suspension, the CONSULTANT will be given written notice outlining the particulars of such suspension order. 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 CONTRACT.

Termination (for Non-Responsibility): Upon written notice to the CONSULTANT, and a reasonable opportunity to be heard with appropriate NYSDOT or staff, the CONTRACT may be terminated by the 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 legal or equitable remedies for such breach.

ARTICLE 30 – NOTICES

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

e. By email.

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

New York State Department of Transportation:
Contact Person’s Name: Matt Bromirski, Contract #C037888
Title: Deputy Assistant Commissioner, Office of Contract Management
Address: NYSDOT, Office of Contract Management, 50 Wolf Rd, 6th Floor, Albany, NY 12232
Telephone Number: (518) 457-2600
Facsimile Number: (518) 457-2875
Email: Matt.Bromirski@dot.ny.gov

Watertown/Jefferson County Transportation Council:
Contact Person’s Name: Kristopher H. Reff, P.E., Contract #C037888
Title: Acting Program & Project Management Supervisor
Address: NYSDOT Region 7, 317 Washington Street, Watertown, New York 13601
Telephone Number: (315) 779-3011
Email: kristopher.reff@dot.ny.gov

Consultant’s Name: Enter Prime Consultant Name
Contact Person’s Name:
Title:
Address:
Telephone Number:
Facsimile Number:
Email:

2. 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 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.

3. 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 CONTRACT by giving fifteen (15)
calendar days’ 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 CONTRACT.

4. 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 31 – TITLE VI ASSURANCE
During the performance of this CONTRACT, the CONSULTANT, for itself, its assignees and successors in interest (hereinafter referred to as the “CONSULTANT”) agrees as follows:

1. Compliance with Regulations: The CONSULTANT 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 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 CONSULTANT, 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/subconsultants, including procurements or materials and leases of equipment. The CONSULTANT 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 Subcontractor/Subconsultants, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor/subconsultant or supplier shall be notified by the CONSULTANT of the CONSULTANT’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 CONSULTANT 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 CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall so certify to NYSDOT’s Office of Civil Rights or FHWA, as appropriate, and shall set forth the efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the CONSULTANT’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 CONSULTANT under the CONTRACT until the CONSULTANT complies and/or
   b. Cancellation, termination, or suspension of the CONTRACT in whole or in part.

6. Incorporation of Provisions: The CONSULTANT 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 CONSULTANT 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 CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request NYSDOT to enter into such litigation to protect the interests of
NYSDOT, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interest of the United States.

**ARTICLE 32 – 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 subcontractor or subconsultant. Form B will capture historical information, detailing actual employment data for the most recently completed 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 address:

**By Mail:**
- NYS Office of the State Comptroller
  - Bureau of Contracts
  - 110 State Street, 11th Floor
  - Albany, NY 12236
  - ATT: Consultant Reporting

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

**By Email:**
- 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 33 – ENSURING 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/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/subcontractor shall provide such information of each employee in the CONSULTANT’s entire workforce. Such information shall be reported to NYSDOT 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.

Detailed workforce utilization reports, as required above, shall be submitted in such form and in such manner as shall be required by NYSDOT 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/subcontractor, of the subcontract is in excess of $25,000.

ARTICLE 34 – 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 no 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 no act in any manner that is detrimental to any STATE project on which the CONSULTANT is rendering services.

The CONSULTANT hereby affirms 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 CONTRACT. The CONSULTANT shall have a duty to notify the STATE immediately of any actual or potential conflicts of interest.

In conjunction with any subcontract under this CONTRACT, the CONSULTANT shall obtain and deliver to the STATE, prior to entering 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 subconsulting agreement, obtain and deliver to the STATE 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 STATE and the CONSULTANT recognize that conflicts may occur in the future because the CONSULTANT may have existing, or established new, relationships. The STATE will review the nature of any relationship and reserves the right to terminate this CONTRACT for any reason, or for cause, if, in the judgement of the STATE, a real or potential conflict of interest cannot be cured.

ARTICLE 35 – ETHICS REQUIREMENTS
The CONSULTANT and its subconsultants/subcontractors shall not engage any person who is, or has been at any time, in the employ of the STATE to perform services in violation of the provisions of the New York Public Officers Law, other laws applicable to the service of STATE 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 of its employees and those of its subconsultants/subcontractors who are former employees of the STATE 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 STATE with notice of those employees of the CONSULTANT and its subconsultants/subcontractors who are former employees of the STATE that will be assigned to perform services under this CONTRACT, and make sure that such employees comply with all applicable laws and prohibitions. The STATE may request that the CONSULTANT provide it with whatever information the STATE deems appropriate about each such person’s engagement, work cooperatively with the STATE to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by the STATE, instruct any such person to seek the opinion of the New York State Joint Commission on Public Ethics. The STATE shall have the right to withdraw or withhold approval of any subconsultant/subcontractor if utilizing such subconsultant/subcontractor for any work performed hereunder would be in conflict with any of the Ethics Requirements. The STATE shall have the right to terminate this CONTRACT at any time if any work performed hereunder is in conflict with any of the Ethics Requirements.
IN WITNESS WHEREOF, this CONTRACT No. C037888 has been executed by the STATE, acting by and through the Commissioner of Transportation, and the CONSULTANT, by signature below, has duly executed this CONTRACT effective the date and year first above written.

In addition to the acceptance of this CONTRACT, the DEPARTMENT certifies that original copies if this signature page will be attached to all other exact copies of this CONTRACT.

RECOMMENDED BY: FOR THE PEOPLE OF THE STATE OF NEW YORK

_______________________  ____________________________
Office of 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 ___ day of __________, 20__ pursuant to the requirements set forth in OSC’s Guide to Financial Operations is complete, true, and accurate. I additionally certify nothing has occurred since the date of that submission that would result in requiring a change or alteration to any of the answers provided on the “Vendor Responsibility Questionnaire” submitted that date.

By: _________________________________ Date: ____________________________
FIRM NAME

Consultant Planning Service Agreement (PSA) for WJCTC

ATTORNEY GENERAL       THOMAS P. DINAPOLI
       STATE COMPTROLLER

By: _________________________________ Date: ____________________________

By: _________________________________ Date: ____________________________
Acknowledgment for Contract #C037888

For contracts signed in New York State

State of New York )
County of ) ss.:

On the ___ day of ______________ in the year 20__, 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 of New York State

State of )
County of ) ss.:

On the ___ day of ______________ in the year 20__, 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(s) made such appearance before the undersigned in __________________________________ (insert the city or other political subdivision and the state or county or other place the acknowledgment was taken).

____________________________________
Notary Public

(Signature and office of individual taking acknowledgment)

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 $25,000, 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 § 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, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. 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 (2 NYCRR § 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
12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR Part 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 clause. 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 § 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: opu@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.newyorkcontracts.com/FrontEnd/VendorSearchPublic.asp

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) 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, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

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 §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 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 § 5-a, if the contractor fails to make the certification required by Tax Law § 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 § 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: https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-ny-iran-divestment-act-2012

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 § 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.
27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.
APPENDIX A-1

SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)

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

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

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

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

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

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

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

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

REQUIREMENTS FOR FEDERALLY-AIDED TRANSPORTATION PROJECTS

(June 2016)

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 for 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 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/pfalap). 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 agreements 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, color, sex, national origin or age. 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 28 U.S.C. 1801 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 agencies: the New York State Department of Transportation, the New York State Comptroller’s Office and the U.S. Government 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 online database of all Federally-aided programs available to State and local governments (including the District of Columbia); Federally recognized Indian tribal governments; Territories (and possessions) of the United States; domestic public, quasi-public, and private profit and nonprofit organizations and institutions; specialized groups; and individuals.

THE CFDA IDENTIFICATION NUMBER

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

The most commonly used CFDA number for the Federal Aid Highway Planning and Construction program is 20.205.

Additional CFDA numbers for other transportation and non-transportation related programs are:

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.

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/
(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:

(a) 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.

(b) 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.

(c) 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-c, 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 subcontractors 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 subcontract in such a manner that the requirements of the subdivisions will be binding upon each subconsultant as to work in connection with the contract.
e. 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 availability of 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 extent that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age, disability or marital status.

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

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

9. AFFIRMATIVE ACTION IN SUBCONTRACTING  (a) The CONSULTANT will not discriminate on the grounds of race, religion, sex, color, national origin, age, disability or marital status in the selection of subcontractors, including procurements and leases of equipment.
(b) If the CONSULTANT determines to use a subcontractor as part of this agreement, affirmative action shall be taken to increase the participation of minority business firms in that work. As part of that affirmative action, the CONSULTANT will identify and contact minority business firms and solicit proposals for the work to be subcontracted. The STATE will provide a list of names of minority business firms to the CONSULTANT. Another source that should be contacted for a list of minority business firms is the Governor's Office of Minority & Women's Business Development (GOMWBD).

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

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

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

10. RECORDS AND REPORTS

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

1. The number of minority and non-minority group members and women employed in each work classification on the project, where required by the NYS D.O.T Compliance Officer.
2. The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to CONSULTANTS who rely in whole or in part on unions as a source of their work force).
3. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees.
4. The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.
5. Compliance with all other requirements in these provisions such as meetings, instructions, employment efforts, etc.

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

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

In the event that the CONSULTANT subcontracts a portion of the contract work, it shall be determined how many, if any, of the trainees are to be trained by the subcontractor, provided however, that the CONSULTANT shall retain the primary responsibility for meeting the training requirements imposed by this special provision. The CONSULTANT shall also insure that this training special provision is made applicable to such subcontract.
The number of trainees shall be distributed among the work classifications on the basis of the CONSULTANT’s needs. Along with their proposal, the CONSULTANT shall submit to the New York State Department of Transportation for approval the proposed number of trainees to be trained in each selected classification, their estimated salaries and a training schedule. The salaries to be paid trainees shall not be less that 75 percent of the average hourly rate approved in the agreement for the classification to be trained. During the period from the beginning of the project to its completion, the trainee shall receive reasonable salary increases commensurate to the abilities and effort exerted by the trainee. The training schedule required should indicate the start of work and appropriate incremental salary steps in accord with the above.

Training and upgrading the proficiency of minorities and women is a primary objective of this Training Special Provision. Accordingly, the CONSULTANT shall make every effort to enroll minority trainees and women (e.g., by conducting systematic and direct recruitment through public and private sources likely to yield minority and women trainees) to the extent that such persons are available within a reasonable area of recruitment.

The CONSULTANT will be responsible for demonstrating the steps that have been taken in pursuance thereof, prior to a determination as to whether the CONSULTANT is in compliance with this Training Special Provision. This training commitment is not intended, and shall not be used, to discriminate against any applicant for training, whether a member of a minority group or not.

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

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

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

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

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

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

Updated July 2017
APPENDIX D
PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES:
REQUIREMENTS AND PROCEDURES
(revised State 7-12-2017)

I. General Provisions
A. The New York State Department of Transportation (NYSDOT) is required to implement the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (NYCRR) for all State contracts, as defined therein, with a value (1) in excess of $25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of $100,000 for real property renovations and construction.
B. The consultant to the subject contract (the “Consultant” and the “Contract” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to NYSDOT, to fully comply and cooperate with NYSDOT in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (EEO), and contracting opportunities for New York State-certified Minority and Women-Owned Business Enterprises (MWBEs). The Consultant’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) and other applicable federal, state, and local laws.
C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the assessment of liquidated damages pursuant to Section VII of this Appendix D and such other remedies are available to NYSDOT pursuant to the Contract and applicable law.

II. MWBE Utilization Plan
A. The Consultant represents and warrants that the Consultant has submitted an MWBE Utilization Plan, or shall submit a MWBE Utilization Plan at such time as shall be required by NYSDOT. The MWBE Utilization Plan is to be submitted consistent with the requirements stated in the procurement document.
B. The Consultant agrees to adhere to such MWBE Utilization Plan in the performance of the Contract.
C. The Consultant further agrees that failure to submit and/or adhere to such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such material breach, NYSDOT shall be entitled to any remedy provided herein, including but not limited to, a finding that the Consultant is non-responsive.

III. Waivers Post Contract Execution
A. If the Consultant, after making good faith efforts, is unable to achieve the MWBE Contract Goals stated herein, the Consultant may submit a request for a waiver to the NYSDOT Office of Contract Management, Civil Rights Unit. Such waiver request must be supported by evidence of the Consultant’s good faith efforts to achieve the maximum feasible MWBE participation towards the applicable MWBE Contract Goals. If the documentation included with the waiver request is complete, NYSDOT shall evaluate the request and issue a written notice of approval or denial within twenty (20) business days of receipt.
B. If NYSDOT, upon review of the MWBE Utilization Plan, quarterly MWBE Contractor Compliance Reports described in Section VI, or any other relevant information, determines that the Consultant is failing or refusing to comply with the MWBE Contract Goals, and no waiver has been issued in regards to such non-compliance, NYSDOT may issue a notice of deficiency to the Consultant. The Consultant must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of the MWBE Contract Goals.

IV. Liquidated Damages – MWBE Participation
A. Where NYSDOT determines that the Consultant is not in compliance with the requirements of this Appendix and the Consultant refuses to comply with such requirements, or if the Consultant is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Consultant shall be obligated to pay to NYSDOT liquidated damages.
B. Such liquidated damages shall be calculated as an amount equaling the difference between:
   1. All sums identified for payment to the MWBEs had the Consultant achieved the contractual MWBE goals; and
   2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by NYSDOT, the Consultant shall pay such liquidated damages to NYSDOT within sixty (60) days after they are assessed. Provided, however, that if the Consultant has filed a complaint with the Director of the Division of Minority and Women’s Business Development pursuant to 5 NYCRR § 142.12, liquidated damages shall be payable only in the event of a determination adverse to the Consultant following the complaint process.
## State Consultant Services
**Contractor's Annual Employment Report**

**Report Period:** April 1, **to** March 31,

- **Contracting State Agency Name:** Transportation
- **Agency Code:** 3900283
- **Contract Number:** C037888
- **Contract Term:** **to**
- **Contractor Name:**
- **Contractor Address:**
- **Description of Services Being Provided:** Consultant Planning Service Agreement (PSA) for WJCTC

### 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**

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**Name of person who prepared this report:**

**Preparer's Signature:**

**Title:**

**Phone #:**

**Date Prepared:** / /
* PLACEHOLDER *

CONTRACT #C037888
CONSULTANT PLANNING SERVICE AGREEMENT (PSA) for WJCTC
SCHEDULE A
SCOPE OF SERVICES
* PLACEHOLDER *
CONTRACT #C037888
CONSULTANT PLANNING SERVICE AGREEMENT (PSA) for WJCTC
SCHEDULE B
FULLY LOADED BILLING RATES
EXHIBIT I
### FORM A

State Consultant Services – Contractor's Planned Employment  
From Contract Start Date Through The End Of The Contract Term

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<thead>
<tr>
<th>O*Net Employment Category &amp; ONET Employment Category Name</th>
<th>Number of Employees</th>
<th>Number of hours to be worked</th>
<th>Amount Payable Under the Contract</th>
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Total this page  

$ 0.00

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

Grand Total  

$ 0.00
State Consultant Services
Contractor's Annual Employment Report
Report Period: April 1, 2023 to March 31, 2023

Contracting State Agency Name: NYSDOT
Contract Number: C037888
Contract Term: 01/01/2023 to 03/31/2023
Contractor Name: [Contractor Name]
Contractor Address: [Contractor Address]
Description of Services Being Provided: Consultant Planning Service Agreement (PSA) for WJCTC

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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<th>O*Net Employment Category &amp; ONET Employment Category Name</th>
<th>Number of Employees</th>
<th>Number of Hours Worked</th>
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Total this page: 0
Grand Total: $ 0.00

Name of person who prepared this report:
Preparer's Signature: __________________________
Title: __________________________
Phone #: __________________________
Date Prepared: 01/01/2023

Use additional pages if necessary)
Attachment 3. Executive Order 177 Certification

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

Executive Order 177 Certification
Contract #C037888

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__
ACKNOWLEDGMENT OF RECEIPT OF
RFP, MODIFICATIONS AND RESPONSES TO QUESTIONS

<table>
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<tr>
<th>NAME OF PROPOSER:</th>
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We hereby acknowledge receipt of the Consultant Planning Service Agreement (PSA) for WJCTC (Contract #C037888) Request for Proposals, dated **August 26, 2020** and all subsequent RFP Modifications issued by NYSDOT, as listed below. Do not include any RFP Announcements.

Add additional lines below, if needed.

<table>
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<th>RFP MODIFICATION NUMBER:</th>
<th>DATE ISSUED BY DEPARTMENT:</th>
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**SIGNED:**

(____________________)

(Signature)

**DATE:**

(____________________)

**NAME:**

(____________________)

(Print name)

**TITLE:**

(____________________)
Attachment 5. Procurement Lobbying Law Compliance Forms

**Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)**

Offerer affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible Contracts as required by State Finance Laws §139-j (3) and §139-j (6) (b).

<table>
<thead>
<tr>
<th>Contract No.</th>
<th>C037888</th>
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<td>Consultant Name:</td>
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<td>Consultant Address:</td>
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Offerer Disclosure of Prior Non-Responsibility Determinations

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

Address: ________________________________________________________________________________

Name and Title of Person Submitting this Form: ________________________________________________

Contract Procurement Number: C037888

Date: __________________________________________________________________________________

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

If yes, please answer the next questions:

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

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

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

   Governmental Entity: _____________________________________________________________________
   Date of Finding of Non-responsibility: ______________________________________________________
   Basis of Finding of Non-responsibility: _____________________________________________________

   (Add additional pages as necessary.)

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

6. If yes, please provide details below.

   Governmental Entity: ___________________________________________________________________
   Date of Finding of Non-responsibility: ______________________________________________________
   Basis of Finding of Non-responsibility: _____________________________________________________

   (Add additional pages as necessary.)

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

By: ____________________________ Date: __________________________

Name: __________________________ Title: __________________________
Attachment 5 (Continued)

Procurement Lobbying Law Compliance Form Information

Required Forms: The consultant shall sign and e-mail/fax the two PLL forms listed below. These forms are part of and due with a submitted proposal.

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

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


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

1. The Designated Contract Management Specialist
2. The Contract Management Specialist’s Supervisor
3. A Contract Management Assistant Director
4. The Director of Contract Management

These are some communications exempted from this restriction:

1. Participation in a pre-proposal conference/webinar
2. Submittal of written questions when written responses will be provided to all offerers
3. Protests, complaints of improper conduct or misrepresentation

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

Contacts After Designation: NYSDOT identifies its primary negotiation contacts. The designated contacts include:

1. The Designated Contract Management Specialist
2. The Contract Management Specialist’s Supervisor
3. A Contract Management Assistant Director
4. The Director of Contract Management
5. The NYSDOT Consultant Job Manager
6. The NYSDOT Consultant Job Manager’s Immediate Supervisor
7. Any individual(s) that NYSDOT may identify at or after designation

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

Information Required from Offerers that Contact NYSDOT Staff, Prior to Contract Approval by the Office of the State Comptroller: The individuals contacting NYSDOT should refer and shall be prepared to provide the following information, either by e-mail or fax as directed by NYSDOT. Person’s name, firm person works for, address of employer, telephone number, occupation, firm they are representing, and whether owner, employee, retained by or designated by the firm to appear before or contact the NYSDOT.

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

**Rules and Regulations and More Information:** If you require more information regarding the rules and regulations pertaining to NYS’s Procurement Lobbying Law, please visit: [https://ogs.ny.gov/acpl](https://ogs.ny.gov/acpl), [http://www.jcope.ny.gov](http://www.jcope.ny.gov), or please contact the designated NYSDOT Contact Person:

Mr. Al Hasenkopf, C037888  
NYSDOT Contract Management  
50 Wolf Road, 6th Floor  
Albany, New York 12232-0203  
E-mail: alfred.hasenkopf@dot.ny.gov  
Phone: 518-457-1560
Attachment 6. Prime Consultant Information and Certifications

CONTRACT NUMBER: C037888
PROJECT TITLE: Consultant Planning Service Agreement (PSA) for WJCTC

I. CONSULTANT INFORMATION

FIRM NAME: ________________________________________________
ADDRESS: ________________________________________________
CITY: _____________________ STATE: _______________________
ZIP CODE: __________ - __________
TELEPHONE #: (_____) ____-_______ FAX#: (_____) ____-_______
E-MAIL ADDRESS: __________________________________________

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

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

Preparer’s Name/Title: _______________________________________
Address: _________________________________________________
Telephone #: __________ FAX #: __________ E-Mail _____________
Other Authorized Individual(s):
Name/Title: _______________________________________________
Address: _________________________________________________
Telephone #: __________ FAX #: __________ E-Mail _____________

Add additional pages if necessary.
II. PRIME CONSULTANT CERTIFICATIONS

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

- **365-Day Firm Offer**: This proposal is a firm offer for a 365-day (or more) period from the date of submission.

- **Former NYSDOT Employee**: The firm has read and will follow the procedure outlined in RFP Section 6.2 if it proposes the services of a former NYSDOT employee(s).

- **Vendor Responsibility**: In accordance with New York State law, if selected for contract award, the firm will complete and submit the required Vendor Responsibility questionnaire through the Office of the State Comptroller VendRep system, which is accessible via: http://www.osc.state.ny.us/vendrep/index.htm. Vendors must certify the accuracy of the information they provide in the questionnaire and must file their VRQ within 10 days of notification of designation. NYSDOT cannot sign a contract if a firm’s vendor responsibility certification is more than 12 months old.

- **ST-220**: If selected for contract award greater than $100,000, the firm will complete and submit the required Forms ST-220-TD and ST-220-CA during negotiations with NYSDOT. The ST-220 forms with instructions are downloadable from the following websites:

- **Warranties and Representations**: The Consultant certifies that:
  1. The Consultant shall perform all services in accordance with high professional standards in the industry.
  2. The Consultant shall use adequate numbers of qualified individuals with suitable training, education, experience, and skill to perform the services.
  3. The Consultant shall use its best efforts to use efficiently any resources or services necessary to provide the services that are separately chargeable to the State.
  4. The Consultant shall use its best efforts to perform the services in the most cost effective manner consistent with the required level of quality and performance.
  5. The Consultant shall perform the services in a manner that does not infringe the proprietary rights of any third party.
  6. The Consultant shall perform the services in a manner that complies with all applicable laws and regulations.
  7. The Consultant has duly authorized the execution, delivery, and performance of the Contract.
  8. The Consultant has not provided any gifts, payments, or other inducements to any officer, employee, or agent of the State.
  9. Submission of a proposal is an affirmation by the Consultant that its organization complies with all requirements and specifications set forth in this RFP and that its organization can deliver the requested project while performing the services required in a manner consistent with the requirements and terms of this RFP and under the resulting contract.
  10. 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.
11. 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.

12. 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.

13. 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. Section 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: ______________________________________ Date: _______________

Name (Spelled Out): __________________________________ Title: ___________________

III. ACCEPTANCE OF AGREEMENT

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

Signature: ____________________________________ (NAME OF ACCEPTOR)
Attachment 6A. SubConsultant Information

(Please Fill Out One of these Forms for EACH Proposed Sub-Consultant)

CONTRACT NUMBER:  C037888
PROJECT TITLE:  C037888 Consultant Planning Service Agreement (PSA) for WJCTC

I. SUBCONSULTANT INFORMATION

FIRM NAME:  
ADDRESS:  
CITY:  STATE:  
ZIP CODE: ___-_____

TELEPHONE #: (______) _____-______ FAX#: (______) _____-______
E-MAIL ADDRESS:

CONTACT PERSON:

Consultant's Federal Identification Number (FIN):
Consultant's Consultant Identification Number (CIN):
Consultant’s SFS Vendor Identification Number:

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

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

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

Add additional pages if necessary.
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 THEREETO 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:

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

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President:

Secretary:

Treasurer:

President:

Secretary:

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

Identifying Data
Potential Consultant: _____________________________________________________

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

By:

Name

Signature

Legal name of person, firm or corporation

Title

Address: _________________________ Address: ____________________________

Street

Street

City State City State
Attachment 8. Vendor Assurance of No Conflict of Interest or Detrimental Effect

The Firm offering to provide services pursuant to this RFP, 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 with regard to 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 with regard to 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.
9. Firms responding to this RFP 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: ___________________________

Firm Name: ________________________________________________

This form must be signed by an authorized executive or legal representative.
Attachment 9: DBE Participation Information

Complete and submit Attachment 9 to register all proposed DBE subconsultants with NYSDOT to participate in future task assignment requests. Please visit the New York State Unified Certification Program (NYSUCP) DBE Directory to find certified Disadvantaged Business Enterprises via: https://nysucp.newnycontracts.com/. Please ensure the complete legal name of each DBE is listed (including any ‘d/b/a’). Firms are advised to refer to Proposal Pre-Screening (RFP Section 5.1) for the procedure NYSDOT will follow in evaluating a firm’s proposed DBEs.

NYSDOT has established a **12.53% DBE participation goal** applicable to each task assignment request. The 12.53% goal relates to total dollar or total budget value of each task assignment as well as the cumulative DBE participation percentage life to date (over the term agreement’s five-year term; including possible extensions), to be credited towards the term agreement’s total accumulated value over its five year term.

Meaningful participation by subconsultants who are certified as a NYSUCP DBE at the time of proposal submission cumulatively count toward the overall 12.53% DBE participation goal established for the resulting term agreement. Meaningful participation is defined as providing commercially useful functions or services. Qualified DBEs may be added to the term agreement during the life of the contract (five years). Offered DBE services should:

- Result in a product or service distinguishable from the Prime Consultant’s product or service;
- Be for scope of service elements which can be and are completely performed, supervised and managed by the DBE consultant, and/or
- Perform significant tasks which can be considered commercially marketable.

Participation by prime consultants who are certified as DBEs do not count towards the 12.53% DBE goal.

If the Proposal does not meet the 12.53 percent DBE participation goal, the firm must provide evidence of a good faith effort by completing Attachment 10: DBE Subconsultant Participation Solicitation Log. Additionally, if the Proposer does not meet the specified goal, the Proposer must provide a Goal Attainment Explanation Letter explaining why the Proposer was unable to meet the DBE participation goal (in full or if partially), which serves to substantiate the Proposer’s good faith effort. The letter should include sufficient justification as to why the goal was not met or was met partially and should, at a minimum, address the following factors: the Proposer’s method of accomplishing the work, the subcontracting opportunities associated with the proposed approach and scope of services, the availability of certified firms for the work to be performed by either a prime consultant or via subcontract.

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 UCP certified DBE, and indicating each firm’s percentage of the total proposed contract cost.

If the total percentage of total cost for all certified DBEs proposed is less than the contract’s 12.53% DBE participation goal, then the proposing prime Firm is required to fill out and submit
the Good Faith Effort Documentation (Attachment 10); and is required to submit a DBE Goal Attainment Explanation Letter.

Exhibit B  
DBE Participation Information

<table>
<thead>
<tr>
<th>Firm Legal Name</th>
<th>NYS UCP Certified DBE</th>
<th>% of Total Contract Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>DBE</td>
<td>None</td>
</tr>
<tr>
<td>A. Prime Consultant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Sub-Consultants</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>100%</td>
</tr>
</tbody>
</table>
Attachment 10: DBE Subconsultant Participation Solicitation Log

(GOOD FAITH EFFORT DOCUMENTATION)

<table>
<thead>
<tr>
<th>Contract No. CI037888</th>
<th>12.53% DBE Participation Goal</th>
<th>Page Number ___ of ___</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prime Firm Name/Address/Zip Code</td>
<td>Contact Person</td>
<td>Telephone Number (Include Area Code)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Solicited Company Name &amp; Contact Person</th>
<th>Telephone (with Area Code)</th>
<th>Federal Employer ID #</th>
<th>Work Type(s) Being Solicited</th>
<th>Types &amp; Dates of Contacts</th>
<th>Contact Result(s)</th>
</tr>
</thead>
<tbody>
<tr>
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</table>

Note: See ‘Guidance’ for directions regarding how to fill out Attachments 9 and 10.
To be deemed responsive to this solicitation, Consultants whose proposed DBE participation does not meet the established participation goal must document and report their efforts to solicit participation by certified DBE in this Non-Architecture/Non-Engineering contract. The Solicitation Log is used for this purpose.

Guidance concerning Good Faith Efforts in meeting DBE participation goals is located at the end of this section.

The logs are 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 MWBE/SDVOB participation goals are not attained at all or only partially attained, then the proposer must complete all sections of these forms and submit Solicitation Logs, along with a Goal Attainment Explanation Letters, documenting the firm’s Good Faith Effort. A separate Solicitation Log must be submitted for each Participation Goal established in the RFP.

*** MWBE CERTIFICATION IS A STATE PROGRAM CERTIFICATION. ***
IT IS SEPARATE AND DISTINCT FROM THE FEDERAL DBE PROGRAM. PLEASE DO NOT CONFUSE THE TWO. FIRMS WITH QUESTIONS REGARDING THESE PROGRAMS ARE ENCOURAGED TO SUBMIT WRITTEN QUESTIONS.

PAGE NO.: Enter 1 of 1; or 1 of 2 and 2 of 2; etc. Use additional forms as needed.
PRIME NAME/ADDRESS/ZIP CODE: Enter name of the Prime Consultant, its address and zip code.
CONTACT PERSON: Enter the name of the person your firm has designated as the authorized contact person for this solicitation.
CONTACT PERSON TELEPHONE AND E-MAIL: Enter area code, phone number and e-mail address for the person your firm has designated as the authorized contact person for this solicitation.
MBE/WBE/SDVOB 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: Commodity type codes are provided for every certified firm listed in the ESD MWBE 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 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 DBE Participation Goals State Contracts

The following is a list of types of actions that demonstrate good faith efforts in obtaining DBE participation. This list is not exclusive or exhaustive. The bidder must show that it took all necessary and reasonable steps to achieve DBE goals which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

- Soliciting through all reasonable and available means (e.g., attendance at pre-bid meetings, utilizing the NYSUCP DBE Directory – http://www.nysucp.net/ to identify all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

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

- Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

- Negotiating in good faith with interested DBEs – it is the bidder’s responsibility to make a portion of the work available to DBE subconsultants and suppliers and to select those portions of the work or material needs consistent with the available DBE subconsultants and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

- A bidder using good business judgment should consider a number of factors in negotiating with subconsultants, including DBE subconsultants, 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 DBEs is not in itself sufficient reason for failure to meet the contract DBE goals. Also, the ability or desire to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts.

- Do not reject DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The Consultant’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 Consultant’s efforts to meet the project goal.

- Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contract.
Attachment 11. Firm Experience

The qualifications and prior experience of the proposing Consultants are of great importance to NYSDOT. Direct, prior experience regarding the delivery of transportation planning services is highly desirable. Comparable firm experience is allowed only if a direct relevancy is clear. Provide a list of projects currently in progress and those completed within the last three to five years which are relevant to this effort. Proposers must demonstrate that experience and expertise through past and current project attestations and reachable, verifiable references. NYSDOT reserves the right to request information from any source so named and to contact additional references (including appropriate references not specifically named by proposers) to completely verify all offered experience.

### Requirement Description: Organizational Overview

The organizational overview should consist of a succinct statement outlining corporate and business history including a general mission statement, the overall number of employees per position, and other general information about the firm. The Offeror must demonstrate that it possesses adequate staffing resources, financial resources and organization to perform the type, magnitude and quality of work specified herein this RFP, and demonstrate that the Offeror has been in continuous operation for at least the past five (5) years. In addition, the Proposer must provide a statement of previous experience that qualifies the Proposer to provide the Project Services. Proposer may include information not defined as required in this section but deemed necessary to fully understand the Proposer’s Company experience and organizational approach.

Consultant’s Organizational Overview Response:

### Requirement Description: Company Experience

Provide a description of the Proposer’s direct, prior experience in delivery of transportation planning services. Describe this experience and related services as well as describing the client in each case, the number of years the Proposer’s team has been providing such services, and information documenting the complexity and relative size of previous projects. This should include, but not be limited to:

1. The type of client (government entity, private company, etc.)
2. The number of locations
3. The project duration
4. The number of Proposer FTE’s involved in the implementation
5. The number of client FTE’s involved in the implementation
6. Other information relevant to describing the client organization in the context of the RFP

Consultant’s Company Experience Response:

### Requirement Description: Company References

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

Fill out the requested information using the provided form. Use one form for each company reference provided, for up to two past project references. Be sure to cover the proposed Prime Consultant and each proposed Subconsultant.

Consultant’s Company Reference Response (include as many completed responses as appropriate):

<table>
<thead>
<tr>
<th>Reference Company Name:</th>
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</thead>
<tbody>
<tr>
<td>Reference Main Line of Business:</td>
<td></td>
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<tr>
<td>Reference Contact Information</td>
<td></td>
</tr>
<tr>
<td>Primary Contact Person’s Name:</td>
<td></td>
</tr>
<tr>
<td>Title:</td>
<td></td>
</tr>
<tr>
<td>Affiliation/Company Employed By:</td>
<td></td>
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<tr>
<td>Phone:</td>
<td></td>
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<tr>
<td>Email:</td>
<td></td>
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<tr>
<td>Project Information</td>
<td></td>
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<tr>
<td>Project Name:</td>
<td></td>
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<tr>
<td>Project Start Date:</td>
<td></td>
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<tr>
<td>Project End Date:</td>
<td></td>
</tr>
<tr>
<td>Project Budget:</td>
<td></td>
</tr>
<tr>
<td>Number of Staff Involved:</td>
<td></td>
</tr>
<tr>
<td>Types of Staff Involved:</td>
<td></td>
</tr>
<tr>
<td>Degree to which offered key personnel were primarily responsible for project delivery:</td>
<td></td>
</tr>
<tr>
<td>Description of all services provided and how they were/are comparable to the size and scope of the services specified in this RFP:</td>
<td></td>
</tr>
<tr>
<td>An explanation of the size and complexity of the project, including how it compares in size to this project:</td>
<td></td>
</tr>
<tr>
<td>A list of all sub-consultants and the duties they performed (if applicable):</td>
<td></td>
</tr>
<tr>
<td>Project results and benefits delivered to the client</td>
<td></td>
</tr>
</tbody>
</table>

Requirement Description: **Experiences with Subconsultant**

Information documenting the Proposer’s experience working with any proposed sub-contractors (e.g. nature of the relationship, number of engagements worked together, duration of engagements, percent split between firms, etc.).

Consultant’s Subconsultant Experience Response:
Attachment 12. Key Personnel Qualifications

**A. Provide Qualifications, Experience and Resume for Consultant Project Manager**

To assist proposers to be prepared to offer qualified Consultant Project Manager, the RFP provides the following high level job role descriptions:

**Consultant Project Manager:** Responsible for all contractual matters. Responsible for overall performance of all tasks assigned to and agree to be delivered by the Consultant. Serves as primary contact with WJCTC. Responsible for the performance of all tasks assigned to and agreed by the Consultant, as well as all contractual matters. Reviews Task Assignment requests to determine scope, resources, schedule and budget to perform and deliver Task Assignments. Ensures consultant key personal resources are available when requested. Responsible for recruitment of acceptable replacement personnel. Reviews status reports prepared by Consultant Task Assignment managers and modifies scopes, schedules and/or budgets in consultation with the Contract #C037888 Project Manager. Prepares annual Task Assignment report. Confers with task assignment personnel to provide technical advice and to resolve performance problems.

At a minimum, the RFP requires the selected Consultant to provide an experienced, qualified Consultant Project Manager. Please use the experience and resume form provided below.

**EXPERIENCE:**

<table>
<thead>
<tr>
<th>Consultant Project Manager Name:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional Associations, Degrees, and Certifications:</td>
<td></td>
</tr>
<tr>
<td>Number of Years of Relevant Experience in the Proposed Project Role:</td>
<td></td>
</tr>
<tr>
<td>Description of Relevant Experience:</td>
<td></td>
</tr>
</tbody>
</table>

**RESUMES:**

- Be concise
- Provide a minimum of two reference contracts
- Cited client work needs to be relevant to the RFP
- Must be a significant contributor to the project/client referenced

<table>
<thead>
<tr>
<th>Client Name (Reference Company):</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Reference Main Line of Business:</td>
<td></td>
</tr>
<tr>
<td>Project Name:</td>
<td></td>
</tr>
<tr>
<td>Name &amp; Title of Contact:</td>
<td></td>
</tr>
<tr>
<td>Email Address &amp; Telephone Number:</td>
<td></td>
</tr>
<tr>
<td>Provide a Brief Description of Recent, Relevant Project for which they are Serving to Reference</td>
<td></td>
</tr>
</tbody>
</table>

**Staff Reference Check Evaluation Criteria:**

Describe the nature of the project and the work that this staff member performed for you.
How would you rate the staff member's experience and qualifications?

How well did the staff member respond to your needs?

How pleased are you with the work the staff member has performed/is performing for you?

Would you contract with this staff member again?

B. Provide Qualifications for Task Assignment Consultant Key Personnel

To assist proposers to be prepared to offer qualified Key Personnel to perform and deliver on-demand Task Assignment work, the RFP provides high level job descriptions. Any offered key personnel are required to be available to deliver Task Assignment duties per the agreed-upon Task Assignment schedule. All replacement key personnel, which must be provided to minimize schedule impact, are subject to NYSDOT review and approval. You are allowed to offer additional job descriptions which must be relevant to the RFP.

In your Approach, you should talk about your ability to reasonably provide qualified consultant personnel when responding to task assignment requests and your ability to ensure that all consultant personnel assigned to a task assignment are available to provide requested support services in a time frame which meets the task assignment’s schedule. Be sure to include a discussion of ensuring qualified personnel from DBE firms also get an opportunity to participate to meet the 12.53% DBE goal over the life of the contract.

In addition to providing a Consultant Project Manager, the RFP requires the selected Consultant to present qualifications for all other proposed key personnel to perform the roles described below. Present key personnel qualifications in a concise format.

When directed to O*NET, please go to: https://www.onetonline.org/find/family?f=0&g=Go.

High Level Job Descriptions:

Consultant Task Assignment Manager: Supervises and coordinates activities of personnel involved in each assigned Task Assignment. Plans, directs, and coordinates activities of designated task assignment to ensure that goals or objectives of task assignment are accomplished within prescribed time frame and funding parameters. Primary contact with the Task Assignment Project Manager to execute and deliver the assigned Task Assignment. The Consultant’s Task Assignment Manager is responsible for the performance of all work components and elements assigned to each Task Assignment. Directs and coordinates activities of task assignment personnel to ensure task assignment progresses on schedule and within prescribed budget. In the case of some task assignments deemed not complex, the Consultant Project Manager may fill both roles.

Transportation Planner/Transportation Analyst: Designs, directs and conducts transportation systems planning, program planning, and project development and review activities in support of transportation planning. Directs project and program development, analyses, and review activities, developing and implementing planning programs, designing and implementing major surveys and studies, developing and testing new methods for studies, planning, and project accomplishment. Develops and applies procedures and methods to identify and quantify impact of transportation alternatives on economic, social, environmental, and other
factors. Analyzes projects in regards to their modality, size, relationship to existing and proposed transportation facilities, feasibility, impact, cost, possible alternatives, compliance with regional and statewide planning goals, legal and funding constraints, environmental, social, and economic impact, etc. Works and consults with agency staff and representatives of State and local governments and regulatory authorities about projects. Knowledge of compliance of State and Regional transportation planning with State and Federal regulations.

**Technical Analyst:** Please use ONET title 15-2031 Operations Research Analysts.

**Administrative Analyst:** Please use ONET title 11-3011 Administrative Services Manager.

**Administrative Assistant:** Assists with the conduct of studies. Assists with the analysis and evaluation of organizations and their work. Assists with the evaluation and preparation of procedures and work methods, and develop recommendations for organizational and work improvements. Assists in preparing and administering the annual budget and financial plan and may prepare and manage the plan for a program. Assists with the maintenance of financial records to monitor and control expenditures. Prepares and evaluates expenditure and other financial reports. Assists with the preparation of grant applications and administers approved grants. Assists with the purchase of goods and services. Assists with personnel activities. Assists with office support activities. Assists with secretarial duties as required. Assists with staff support services for executive staff and program managers.

**Public Involvement Specialist:** Please use ONET title 11-2031 Public Relations Manager.

**Economist:** Please use ONET title 19-3011 Economists.

**Demographer:** Please use ONET title 19-3011 Economists.

**Statistician:** Please use ONET title 15-2041 Statistician.

**IT Specialist:** Please use ONET titles 15-1071 Network and Computer System Administrator or 15-1081 Network Systems and Data Communication Analyst.

**Transportation Modeler:** Please use ONET title 15-2091 Mathematical Technicians.

**GIS Specialist:** Please use ONET title 17-1021 Cartographers and Photogrammetrists.
Attachment 13. Cost Proposal (Fully Loaded Hourly Rate Schedules)

Instructions

Present your proposed fully loaded annual hourly rate schedules with consultant-home overheads for each year of the resulting contract’s five-year base term with a year-to-year rate adjustment allowance of no more than two percent (2%).

Present one completed Exhibit for each firm in your proposed team.

The offered salary schedule shall list one not-to-exceed rate for each proposed job title for consultant staff by firm to be assigned to future task assignment requests. All proposed rates shall be not-to-be-exceeded rates. As applicable, rates lower than maximum rate can be used to perform requested Task Assignment work. Offer rates for all proposed key personnel. Naming key personnel is optional and not required. Experience divisions within titles are allowed (e.g., Title 1, Title 2, Title 3, etc., with increasing expertise with higher title numbers).

Propose rates for all Consultant-supplied key personnel to be made available under the resulting five-year term agreement based on the RFP’s compendium of scopes (Attachment 17).

The Consultant’s fee cannot exceed 10%.

The term agreement’s rate schedule can be amended to add additional staff or additional subconsultant firms as proposed in response to Task Assignment requests. The rate schedule can also be amended via additional subconsultant staff proposed in response to Task Assignment requests.

For any Consultant work to be delivered after extending the term agreement beyond its 5-year term, all out-year rates shall also be limited to no more than a two percent (2%) increase from the last year of the contract.

Non-Salary Costs. NYSDOT and WJCTC acknowledge that all direct non-salary costs associated with submitting a proposal cannot be estimated at this time, and are to be proposed at the time of mini-bid submission. Other direct costs shall be reasonably reimbursed by the State. **Please do not present Direct Non-Salary Costs in your Part II submission.** Actual Direct Non-Salary Cost budgets shall be proposed and negotiated via task assignment mini-bids requests. Once a Part B cost mini-bid has been submitted, costs cannot be increased and reimbursement rates for labor and/or DNSC cannot be increased.

**Please Note:** Reasonable reimbursement for travel, meals, and lodging shall be limited to the prevailing maximum rates established by the State Comptroller. The latest state and nationwide rates are available at the following Web site: [http://www.gsa.gov](http://www.gsa.gov).
### Attachment 13

**SCHEDULE B Exhibit 1**

**C037888 PSA RFP COST PROPOSAL: FULLY LOADED HOURLY RATE SCHEDULE**

Consultant Name: _______________________________________ (Prime or Sub)

<table>
<thead>
<tr>
<th>TITLE</th>
<th>YEAR 1 DIRECT LABOR (Salary)</th>
<th>(b) OVERHEAD(__ %)</th>
<th>(c) FEE(__ %)</th>
<th>(a)+(b)+(c) YEAR 1 BILLING RATE</th>
<th>YEAR 2 BILLING RATE</th>
<th>YEAR 3 BILLING RATE</th>
<th>YEAR 4 BILLING RATE</th>
<th>YEAR 5 BILLING RATE</th>
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<tbody>
<tr>
<td>Consultant Project Manager</td>
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<tr>
<td>Consultant Task Manager</td>
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<tr>
<td>Transportation Planner/Analyst</td>
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<tr>
<td>Technical Analyst</td>
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<td>Administrative Analyst</td>
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<tr>
<td>Administrative Assistant</td>
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<td>Public Involvement Specialist</td>
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<td>Economist</td>
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<td>Demographer</td>
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<td>Statistician</td>
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<tr>
<td>Specialty Planner (Freight/Land Use)</td>
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<tr>
<td>IT Specialist</td>
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<tr>
<td>Transportation Modeler</td>
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<tr>
<td>GIS Specialist</td>
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</tbody>
</table>

**Notes:**

1. Titles are suggested. Propose titles which are commensurate with your technical proposal.
2. Rates shall be proposed each year of the resulting contract’s five year term with a year-to-year rate adjustment allowance of no more than two percent (2%).
3. Any PSA work extended beyond the term agreement’s 5-year term shall be restricted to using year five rates with no adjustment.
4. For the purposes of this RFP, a contract year shall be January 1st to December 31st.
5. Rates are effective within each contract year.
Watertown-Jefferson County Transportation Council (WJCTC)
NON-DISCLOSURE AGREEMENT
For CONSULTANTS working at WJCTC’s Offices
Under New York State Department of Transportation Contract #C037888

With: _________________________________ (Hereinafter the “Consultant”)

Print Name

Consultant Name: _________________________________

Contract #C037888

Task Assignment Name & Number: _________________________________

The Consultant acknowledges that the parent firm has signed the contract knowing it includes a
Confidentiality clause, that all WJCTC contracts are NYSDOT contracts, and that all WJCTC contracts
are held by NYSDOT on behalf of WJCTC. The Consultant further acknowledges that during the course
of delivering services under a contract with NYSDOT, there may be Confidential Information disclosed
to certain Consultant staff consisting of, but not necessarily limited to:

1. Technical information: Methods, processes, formulae, systems, techniques, computer programs
   and research projects
2. Business information: Consultant lists, customer lists, customer addresses, constituent lists,
   financial data, strategic plans, or information regarding NYSDOT’s or WJCTC’s business
   dealings and relations with other Consultants
3. NYSDOT Decision Support System information: NYSDOT and WJCTC Pre-letting, letting and
   post letting data involving but not limited to all data and code tables, the result of any models,
   reports and maps of any kind
4. Future Procurements: Any information, specifications or confidential information related to
   conducting future competitive procurements
5. Any inquiries, reports, investigations of any kind or discussions with agencies external to
   NYSDOT and WJCTC including but not limited to any state or federal department or agency

This Non-Disclosure Agreement sets forth the terms and conditions under which the parties will treat
Confidential Information:

1. Information Gained: Consultant agrees to treat all information given to him/her by staff or by
   members of WJCTC in the course of its contract with NYSDOT as Confidential Information,
   unless provided written release from this designation for specified information by authorized
   NYSDOT and/or WJCTC staff.

2. The Task Assignment Project Manager agrees to clearly identify any confidential information
   given to the Consultant as confidential. The Consultant will be given an opportunity to review
   said confidential material and ask any questions regarding said material before agreeing to accept
   said confidential material.

3. Consultant Agrees: That all Consultant staff now working for NYSDOT at WJCTC will be
   instructed to: a) to protect the Confidential Information from unauthorized use or disclosure with
   the same degree of care that Consultant uses to protect its own confidential information of a
similar nature; b) use the Confidential Information only for the purpose of the projects or assignments they are performing for NYSDOT at WJCTC; c) not reproduce the Confidential Information in any form except as necessary for the Project; d) not disclose the Confidential Information or otherwise permit access thereto except to employees and/or consultants designated by the NYSDOT for WJCTC, with the explicit understanding that this prohibition includes disclosure of Confidential Information by Consultant staff employed by NYSDOT at WJCTC to Consultant sales, marketing, management, and any other Consultant staff not directly employed by NYSDOT at WJCTC. Consultant further agrees not to disclose the nature of the work to any third party without prior NYSDOT and/or WJCTC consent. At the NYSDOT/WJCTC’s request, Consultant will destroy any material received from NYSDOT and WJCTC immediately. All products, whether physical or intellectual, produced in this relationship are NYSDOT property and the Consultant has no rights to claim, distribute, or market such any product or related information without prior written consent from NYSDOT Management and from WJCTC Management. Consultant will comply with all NYSDOT and with all WJCTC security policies, procedures and standards and follow good industry accepted security practices.

4. Exceptions: Confidential Information shall not include information to the extent that it: a) is or becomes, through no act or omission of the Consultant or an employee or agent of the Consultant, publicly known by third parties in the same trade or business as the Consultant; b) is lawfully received from a third party having the right to disseminate the information without restriction on disclosure; c) is furnished to others by the disclosing party without restriction on disclosure; d) is independently developed by the Consultant without reference to Confidential Information; or e) is disclosed by the Consultant under proper judicial or governmental process with reasonable prior notice to the other party.

5. Upon Termination of the Business Relationship: Consultant agrees to return any and all confidential material received from NYSDOT/WJCTC to WJCTC and destroy any copies, whether electronic, paper, or other media within 1 week of agreement/task assignment termination.

6. Possible Sanctions: Violation of this agreement could involve penalties, up to and including, relationship and/or agreement termination, and civil and criminal prosecution in accordance to NYS Law.

Consultant Signature: __________________________

Consultant Name: __________________________

Title: __________________________ Date: __________

NYSDOT/WJCTC Signature: __________________________ TASK ASSIGNMENT MANAGER

NYSDOT/WJCTC Name: __________________________

Title: __________________________ Date: __________

96
I. Task Assignment Purpose

The Watertown-Jefferson County Transportation Council (WJCTC) is requesting consultant planning services to perform the Title services. The PSA task assignment request (TAR) process is only open to Consultant selected under NYSDOT’s C037888 RFP. No other consulting firms are allowed to participate in the PSA request process.

II. Specifications/Requested Scope of Services for the Task Assignment

A. Specifications

The proposing firm shall provide Qualification Descriptions for proposed key personnel to deliver all of the requested task assignment services. This Task Assignment Request has a 12.53% DBE Goal. Substitute or new consultant staff can only be offered if prior approval from WJCTC’s Consultant Manager and from NYSDOT have been given.

Per RFP Attachment 12 ‘Key Personnel Qualifications’, the following key personnel are suggested:

1. Key Personnel 1
2. Key Personnel 2, etc.

B. Duties and Tasks: See RFP Attachment 17 ‘Compendium of Sample Scope of Services’ sample scope # <TITLE>’ for a general task assignment description. In addition, and more specifically, a response to this task assignment shall perform the following:

- Duty 1
- Duty 2, etc.
- Task 1
- Task 2, etc.

Unless otherwise directed, it is anticipated that attending Key personnel assigned to this task assignment shall remotely provide their services per this TAR. Unless otherwise directed, anticipate that meetings shall be remotely attended. In person meetings may occur as directed. The TA PM must approve travel to the project and it must be reasonable.

C. Schedule
Task Assignment Duration: ______ months with one optional ____ month extension.
Estimated Task Assignment Start Date: _____
Estimated Task Assignment End Date: ____

D. Deliverables

- Draft and Final Technical Memos with concise and complete deliverable descriptions
- Monthly and Final Task Assignment Progress Reports

III. Task Assignment Request Response Requirements

A. Technical and Management Submittal

1. Title page, indicating name, address and phone number of the PSA firm, including a contact person, and name, e-mail address and telephone number of the person(s) who prepared the task assignment request response. Include 180 day firm offer statement. Signed by a company officer.

2. Table of Contents

3. Executive Summary, which provides a brief description of the proposed approach and work effort.

4. Experience: Qualifications and prior relevant experience of proposed personnel is of great importance to WJCTC and NYSDOT. Direct, prior experience is highly desirable in the aforementioned field. Provide a resume and at least two references per proposed person. NYSDOT and WJCTC reserve the right to request information from any source so named, as well as seek experience validation checks on their own.

5. Organizational chart, with supporting narrative: Presents the services to be performed by each proposed Consultant personnel. If subcontractors are to be used, explain the need and how they will be incorporated into the hypothetical effort and describe the arrangements. Discuss your plan for phasing project personnel into the task during the task’s duration.

6. Scope of Services: Present a concise, detailed Scope of Services. Include descriptions of services to be delivered by each assigned key personnel. Discuss the extent and quality of interaction with key external stakeholders and participants. Include deliverables as applicable.

7. Task Assignment Schedule: Present your proposed schedule for completion of the hypothetical scenario task assignment showing the duration of subtasks and all major milestones and deliverables.

8. DBE Participation Information: Include any discussion of proposed DBE subconsultant participation. Please keep in mind that only NYSUCP certified DBEs are eligible to count toward attainment of term agreement #C037888’s DBE participation goal. The goal relates to total cumulative dollars budgeted under
contract #C037888 as task assignment work gets added.

B. Cost and Expenses Submittal: Use cost schedule templates provided below

1. Task Assignment Budget: Present your proposed total budget with task-based, deliverable-oriented fixed milestone payment schedule. Present total cost of labor for each assigned key personnel by task. Present estimates of all required direct non-salary expenses to deliver all proposed task assignment response support services (for travel and per diem estimation purposes, assume 20% to 30% may be within the Watertown/Jefferson County area). Rates must come from and cannot exceed rates presented in RFP Attachment 13.

2. Salary Schedule. List all Consultant job titles with rates for all key personnel proposed to be assigned to this task assignment by year. Present one schedule by firm.

3. Direct Non-Salary Costs. Present estimates of direct non-salary expenses expected to be incurred in the performance of task assignment by task and by firm. Explain any assumptions supporting each out-of-pocket cost item with all factors leading to the derivations of the cost. Reasonable reimbursement for travel, meals, and lodging shall be limited to the prevailing maximum rates established by the State Comptroller. The latest state and nationwide rates are available at the following Web site: http://www.gsa.gov.

4. DBE Participation Cost Information. Please complete the following table to identify total costs contributable to any DBE subconsultant participation. DBE participation is measured in total dollars which accrue towards measuring accomplishment of C037888’s 12.53% DBE goal.

<table>
<thead>
<tr>
<th>Firm Legal Name</th>
<th>NYSUCP Certified DBE</th>
<th>% of Total Cost</th>
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<td>DBE</td>
<td>None</td>
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<td>B. Sub-Consultants</td>
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<td>Total</td>
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Hypothetical Task Assignment Request Response
Long-Range Transportation Plan Update Support
Task Assignment #2020-01; PIN: 1234.56.789

Proposed Project Budget

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Direct Non-Salary Costs:

Total Costs:

Instructions:
- Submit one completed project budget form for each firm participating in the task assignment.
- Indicate all titles, rates, and hours for all assigned Consultant personnel by task and by firm. If more than one of the same title are being proposed, submit one line for each assigned same title.
- Add or subtract titles as required to reflect your proposed task assignment response plan. You can label each title according to your proposed Attachment 13 key personnel roster.
- Add or subtract tasks as required to reflect your proposed task assignment response plan. You can label each task according to this plan.
- Total all hours by title,
- Assume a schedule which defines the project start and end dates to be within Contract Year One only. Therefore, only use Year One Rates (from Attachment 13) to estimate cost of labor.
- Multiply total hours by the assigned, applicable Year One Rate to generate total labor cost by title.
- Include estimates of Direct Non-Salary Costs (out of pocket expenses) required to deliver the project. Please separately itemize.
- Round labor and expense costs to the nearest whole dollar.
HYPOTHETICAL TASK ASSIGNMENT REQUEST RESPONSE
LONG-RANGE TRANSPORTATION PLAN UPDATE SUPPORT
TASK ASSIGNMENT #2020-01; PIN: 1234.56.789

PROPOSED MILESTONE PAYMENT SCHEDULE

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<th>PAYMENT TWO</th>
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<td>Task Two</td>
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<td>Subtask A</td>
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<td>Subtask B</td>
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INSTRUCTIONS:
- Submit one completed milestone payment schedule form, which shall cover all proposed firm fixed total payments for all applicable costs (labor and expenses) for all firms participating in each task and subtask to deliver all support services per your proposed task assignment response plan.
- Add or subtract task rows (and add or subtract subtask rows) as required to reflect your proposed task assignment response plan.
- Add or subtract payment columns as required to reflect your proposed task assignment response plan. Max number should reflect the most numerous payment schedule per task (can leave non-applicable payment schedule columns blank).
### HYPOTHETICAL TASK ASSIGNMENT REQUEST RESPONSE
### LONG-RANGE TRANSPORTATION PLAN UPDATE SUPPORT
### TASK ASSIGNMENT #2020-01; PIN: 1234.56.789

#### PROPOSED TOTAL COST

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<td>Subconsultant #3 Name:</td>
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#### INSTRUCTIONS:
- Submit one completed project total project cost form, which covers all costs proposed to deliver the requested task assignment.
- Add or subtract the subconsultant cost rows as required to accurately reflect your proposed task assignment response plan.
Attachment 16. Hypothetical Scenario Response

The Task Assignment Project Manager has issued a Task Assignment Request for the selected Consultant to offer a proposed Scope, Assigned Key Personnel, Schedule, and Budget to support delivery of the MPO’s federally-required Long-Range Transportation Plan update. The scenario following is a hypothetical Task Assignment Request response exercise for the purpose of evaluating proposals, your understanding of this RFP and your ability to follow directions. WJCTC/NYS DOT does not intend for any proposer to name names or undertake any actual work until a Consultant has been selected and awarded the term agreement resulting from this RFP.

Provide a complete Task Assignment Request response based on RFP Attachment 17 Compendium of Scopes of Services #3. Offer Key Personnel qualifications only. Describe how each proposed key personnel will perform their respective roles to effectively, efficiently and economically deliver the requested services. You can only offer those key personnel contained in your Attachment 12 and Attachment 13 responses.

NEW YORK STATE DEPARTMENT OF TRANSPORTATION/
WATERTOWN-JEFFERSON COUNTY TRANSPORTATION COUNCIL (WJCTC),
CONSULTANT PLANNING SERVICES FOR WJCTC (PSA)

TASK ASSIGNMENT REQUEST #PSA-2020-01
TITLE: HYPOTHETICAL TASK ASSIGNMENT REQUEST RESPONSE FOR
LONG-RANGE TRANSPORTATION PLAN UPDATE SUPPORT
PIN#: 1234.56.789
Federal-Aid Project ID Number: ABC.123

I. Task Assignment Purpose

The Watertown-Jefferson County Transportation Council (WJCTC) is requesting consultant planning services to perform the Long-Range Transportation Plan Update support services. The PSA task assignment request (TAR) process is only open to Consultant selected under NYS DOT’s C037888 RFP. No other consulting firms are allowed to participate in the PSA request process.

II. Specifications/Requested Scope of Services for the Task Assignment

A. Specifications

The proposing firm shall provide Qualification Descriptions for proposed key personnel to deliver all of the requested task assignment services. For the purposes of this hypothetical scenario evaluation, it is up to the Consultant to select and present appropriate key personnel qualifications necessary to effectively, efficiently and economically deliver the requested services. This Task Assignment Request has a 12.53% DBE Goal. Substitute or new consultant staff can only be offered if prior approval from WJCTC’s Consultant Manager and from NYS DOT have been given.

B. Duties and Tasks : See RFP Attachment 17 ‘Compendium of Sample Scope of Services’ sample scope #3 ‘Long Range Transportation Plan Support’ for a general task assignment description.
In addition, and more specifically, a response to this task assignment shall have two concurrent phases: Phase 1 - Addressing the requirements of the current surface transportation authorization (the FAST Act); and Phase 2 - The next full update of the LRTP. Both phases shall be achieved by working with WJCTC member agencies. Provide assistance with required public outreach (including virtual public outreach) while WJCTC member-level agency planning continues.

C. Schedule
Facilitate monthly and other periodic Long-Range Transportation Plan Update meetings.

Task Assignment Duration: Nine (9) months with one optional three (3) month extension.

Estimated Task Assignment Start Date: Month DD, 2020.
Estimated Task Assignment End Date: Month DD, 2021

D. Deliverables
1. Addendum which addresses FAST Act gaps - due three months after NTP
2. Draft and Final Long-Range Transportation Plan update sections
3. Draft and Final infrastructure needs assessment
4. Draft and Final financial forecasts
5. Monthly and Final Task Assignment Progress Reports

III. Task Assignment Request Response Requirements
A. Technical and Management Submittal
1. Title page, indicating name, address and phone number of the PSA firm, including a contact person, and name, e-mail address and telephone number of the person(s) who prepared the task assignment request response. Include 180 day firm offer statement. Signed by a company officer.
2. Table of Contents
3. Executive Summary, which provides a brief description of the proposed approach and work effort.
4. Experience: Qualifications and prior relevant experience of proposed personnel is of great importance to WJCTC and NYSDOT. Direct, prior experience is highly desirable in the aforementioned field. Provide a resume and at least two references per proposed person. NYSDOT and WJCTC reserve the right to request information from any source so named, as well as seek experience validation checks on their own.
5. Organizational chart, with supporting narrative: Presents the services to be performed by each proposed Consultant personnel. If subcontractors are to be used, explain the need and how they will be incorporated into the hypothetical effort and describe the arrangements. Discuss your plan for phasing project personnel into the task during the task’s duration.
6. Scope of Services: Present a concise, detailed Scope of Services. Include descriptions of services to be delivered by each assigned key personnel. Discuss the extent and quality of interaction with key external stakeholders and participants.
7. Task Assignment Schedule: Present your proposed schedule for completion of the hypothetical scenario task assignment showing the duration of subtasks and all major milestones.
8. DBE Participation Information: Include any discussion of proposed DBE subconsultant participation. Please keep in mind that only NYSUCP certified DBEs are eligible to count toward attainment of term agreement #C037888’s DBE participation goal. The goal relates to total cumulative dollars budgeted under contract #C037888 as task assignment work gets added.

B. Cost and Expenses Submittal: Use cost schedule templates provided below

5. Task Assignment Budget: Present your proposed total budget with task-based, deliverable-oriented fixed milestone payment schedule. Present total cost of labor for each assigned key personnel by task. Present estimates of all required direct non-salary expenses to deliver all proposed task assignment response support services (for travel and per diem estimation purposes, assume 20% to 30% may be within the Watertown/Jefferson County area). Rates must come from and cannot exceed rates presented in RFP Attachment 13.

6. Salary Schedule. List all Consultant job titles with rates for all key personnel proposed to be assigned to this task assignment by year. Present one schedule by firm.

7. Direct Non-Salary Costs. Present estimates of direct non-salary expenses expected to be incurred in the performance of task assignment by task and by firm. Explain any assumptions supporting each out-of-pocket cost item with all factors leading to the derivations of the cost. Reasonable reimbursement for travel, meals, and lodging shall be limited to the prevailing maximum rates established by the State Comptroller. The latest state and nationwide rates are available at the following Web site: http://www.gsa.gov.

8. DBE Participation Cost Information. Please complete the following table to identify total costs contributable to any DBE subconsultant participation. DBE participation is measured in total dollars which accrue towards measuring accomplishment of C037888’s 12.53% DBE goal.

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<th>Firm Legal Name</th>
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<th>% of Total Cost</th>
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<td>B. Sub-Consultants</td>
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**PROPOSED PROJECT BUDGET**

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**Direct Non-Salary Costs:**

**TOTAL COSTS:**

**INSTRUCTIONS:**
- Submit one completed project budget form for each firm participating in the task assignment.
- Indicate all titles, rates, and hours for all assigned Consultant personnel by task and by firm. If more than one of the same title are being proposed, submit one line for each assigned same title.
- Add or subtract titles as required to reflect your proposed task assignment response plan. You can label each title according to your proposed Attachment 13 key personnel roster.
- Add or subtract tasks as required to reflect your proposed task assignment response plan. You can label each task according to this plan.
- Total all hours by title,
- Assume a schedule which defines the project start and end dates to be within Contract Year One only. Therefore, only use Year One Rates (from Attachment 13) to estimate cost of labor.
- Multiply total hours by the assigned, applicable Year One Rate to generate total labor cost by title.
- Include estimates of Direct Non-Salary Costs (out of pocket expenses) required to deliver the project. Please separately itemize.
- Round labor and expense costs to the nearest whole dollar.
HYPOTHETICAL TASK ASSIGNMENT REQUEST RESPONSE
LONG-RANGE TRANSPORTATION PLAN UPDATE SUPPORT
TASK ASSIGNMENT #2020-01; PIN: 1234.56.789

PROPOSED MILESTONE PAYMENT SCHEDULE

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<tr>
<th>Task One</th>
<th>PAYMENT ONE</th>
<th>PAYMENT TWO</th>
<th>PAYMENT THREE</th>
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INSTRUCTIONS:
- Submit one completed milestone payment schedule form, which shall cover all proposed firm fixed total payments for all applicable costs (labor and expenses) for all firms participating in each task and subtask to deliver all support services per your proposed task assignment response plan.
- Add or subtract task rows (and add or subtract subtask rows) as required to reflect your proposed task assignment response plan.
- Add or subtract payment columns as required to reflect your proposed task assignment response plan. Max number should reflect the most numerous payment schedule per task (can leave non-applicable payment schedule columns blank).
HYPOTHETICAL TASK ASSIGNMENT REQUEST RESPONSE
LONG-RANGE TRANSPORTATION PLAN UPDATE SUPPORT
TASK ASSIGNMENT #2020-01; PIN: 1234.56.789

PROPOSED TOTAL COST

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TOTAL PROJECT COST: $

INSTRUCTIONS:
- Submit one completed project total project cost form, which covers all costs proposed to deliver the requested task assignment.
- Add or subtract the subconsultant cost rows as required to accurately reflect your proposed task assignment response plan.
Attachment 17. Compendium of Sample Scope of Services

The RFP requires the selected Consultant to make available (after reasonable notice) key personnel qualified to perform support services associated with delivery of scope of services for up to thirteen (13) projects included in the Compendium of Sample Scope of Services. The compendium includes the following sample scopes of services, which are presented below:

1. Unified Planning Work Program (UPWP) Support
2. Transportation Improvement Program (TIP) Support
3. Long-Range Transportation Plan Support
4. Public Involvement Support
5. Title VI Program Support
6. Performance of Transportation Studies
7. Transportation Performance Management (TPM) System Performance Report
8. Socio-Economic and Demographic Forecast Support
9. Geographic Information System (GIS) Support
10. Travel Survey Support
11. Traffic Model and Forecasting Support
12. Grant Support

Summary descriptions of each sample Scope of Service support work descriptions are presented below. Actual task assignment requests, if any, may contain additional, more-detailed scope of services support requirements consistent with this compendium.
1. Unified Planning Work Program (UPWP) Support

The Consultant shall support the development of an annual update to the Watertown-Jefferson County Transportation Council’s (WJCTC) Unified Planning Work Program (UPWP). The UPWP defines the planning priorities in WJCTC’s planning area and describes all federally-funded transportation-related planning activities anticipated within a given program year. Its successful completion each year enables federal funding assistance to undertake planning activities by WJCTC’s staff and its members effective April 1st of each program year.

Working with and through the WJCTC Task Assignment Project Manager (TA PM), the Consultant shall undertake some or all of the following activities in support of updating WJCTC’s UPWP (a modest amount of additional supporting task work may be defined and required after notice to proceed):

1. Development of a master timeline of federally-required planning products and analyses and projection over five program year period
2. Formulation of detailed guidance packages for each UPWP update cycle
3. Accounting assistance in coordination with the NYSDOT Main Office regarding UPWP project budgeting via annual program fund sources
4. Geocoding of planning project information for visualization
5. Compilation of planning project information from other significant regional planning initiatives
6. Assist with the development of proposed UPWP amendments and administrative modifications
7. Assist with the development of any reports requested by FHWA, FTA or NYSDOT

Deliverables for these activities may include the following:

1. Annual WJCTC UPWP documents
2. Technical memorandum describing the five year program projection
3. UPWP Update Guidance package(s) as assigned
4. Technical memorandum detailing other regional planning initiatives as assigned
5. Draft and final versions of proposed UPWP amendments and administrative modifications

The Consultant shall assign key personnel to perform and deliver this scope of services who should have experience with some or all of the following:

1. Databases
2. GIS mapping
3. Document editing, formatting, etc.
2. Transportation Improvement Program (TIP) Support

The Consultant will support the development and management of Watertown-Jefferson County Transportation Council’s (WJCTC) Transportation Improvement Program (TIP). The federally-mandated TIP defines all of the federally-funded transportation projects proposed for planning, design and implementation in the WJCTC planning area over a rolling five-year period. The TIP documents WJCTC’s medium-range transportation improvements that are eligible for federal funding -- projects that will strengthen and enhance the State’s bridges, highways, transit services, bikeways and walkways. The TIP is derived from and consistent with WJCTC’s Long-Range Transportation Plan. WJCTC follows a three year development cycle for the TIP. TIP adoptions precede the start of a federal fiscal year.

Working with and through the TA Project Manager, the Consultant shall undertake some or all of the following activities in support of TIP development (a modest amount of additional supporting task work may be defined and required after notice to proceed):

1. Preparation and execution of a public outreach program for each TIP cycle
2. Entry of proposed project lists into relevant databases
3. Review of project information to ensure compliance with federal guidelines and to facilitate related GIS mapping
4. Research of relevant project information for the regional emissions analysis
5. Drafting of document sections for review by WJCTC’s members
6. Development of report maps, figures and tables

Deliverables for these activities may include the following:

1. Technical memorandum describing the TIP public outreach program and schedule
2. Draft and final TIP document sections, including project listings, as assigned, with all required metrics and graphics, maps, figures and tables
3. Assist with the development of any reports requested by FHWA, FTA or NYSDOT.

Consultant shall assign key personnel to this Scope of Services who have experience with some or all of the following:

1. Public outreach
2. Databases
3. GIS mapping
4. Air quality and emissions analysis
5. Document preparation, formatting and editing
3. Long-Range Transportation Plan Support

The Consultant shall support the development of Watertown-Jefferson County Transportation Council’s (WJCTC) Long-Range Transportation Plan during its four year development cycle. The Plan is a federally-required planning product that lays out the region’s long-term transportation needs and desires over a minimum 20-year time frame. It is a blueprint that helps guide federal funding of investments in the WJCTC planning area based on the WJCTC members’ vision for the region and is developed collaboratively with members, agencies, other stakeholders and the public. The Plan covers all modes of surface transportation from a regional perspective including highways, streets, public transportation, bicycle and pedestrian facilities, goods movement and special needs transportation. In addition, it addresses key transportation activities such as operations and management of the transportation system, safety, security and regional finances. The frequency of updates to WJCTC’s Plan is subject to change; the update cycle and time-frame requirements may change (with any changes in federal regulations).

Working with and through the TA Project Manager, the Consultant shall undertake some or all of the following activities in support of Plan development (a modest amount of additional supporting task work may be defined and required after notice to proceed):

1. Preparation and execution of a public outreach program
2. Development of a long-range infrastructure needs assessment and related resource forecasts
3. Research related to innovative financing measures
4. Development of listings of projects, programs and studies and related GIS mapping;
5. Research of relevant project information for the regional emissions analysis
6. Assist with the development of the transportation performance management report for inclusion in the Plan
7. Drafting of Plan chapters for review by WJCTC’s members
8. Development of Plan maps, figures and tables
9. Development and/or update of the Plan’s various supporting elements, including but not limited to the Environmental Justice Assessment of the planning process, Environmental Mitigation and Consultation, Pedestrian-Bicycle Element, Regional Freight Plan, socioeconomic and demographic forecasting, Coordinated Public Transit-Human Services Plan and an assessment of relevant local planning efforts related to economic development, transit needs, hazard mitigation, etc.
10. Development of a Plan executive summary document
11. Preparation of draft and final Plan documents

Deliverables for these activities may include the following:

1. Technical memorandum describing the Plan public outreach program and schedule
2. Technical memorandum describing the long-range infrastructure needs assessment, related resource forecasts and innovative financing measures, including forecasts yields
3. Listings of projects, programs and studies by county/borough and related GIS mapping
4. Draft and final Plan chapters as assigned
5. Draft and final supporting Plan elements, as assigned
6. Draft and final Plan documents, including the executive summary report
Assist with the development of any reports requested by FHWA, FTA or NYSDOT. The Consultant shall assign key personnel to this Scope of Services who should have experience with some or all of the following:

1. Regional planning
2. Public outreach including virtual public outreach
3. Transportation finance and financial forecasting
4. Project planning
5. Data bases
6. GIS mapping
7. Freight, non-motorized and human services transportation
8. Document preparation, formatting and editing
4. Public Involvement Support

The Consultant shall support Watertown-Jefferson County Transportation Council’s (WJCTC) federally-required Public Involvement activities. Under Federal legislation, Public Involvement is required to better involve the region’s residents and employers in the transportation planning process.

Working with and through the TA Project Manager, the Consultant shall undertake some or all of the following activities in support of public involvement activities, such as (a modest amount of additional supporting task work may be defined and required after notice to proceed):

1. Preparation and execution of a public outreach program to evaluate current efforts and accept ideas for new approaches such as virtual presentations, webinars, digital town halls, etc.
2. Review of federal requirements for evaluation of the current program
3. Preparation of draft recommendations and strategies for discussion with WJCTC’s members
4. Preparation of final materials and information for consideration and action by WJCTC’s Committee
5. Assist WJCTC staff in adapting to new approaches to public involvement
6. Assist with execution of public involvement activities including coordination of meetings, virtual presentations, etc. and drafting outreach material

Deliverables for these activities may include the following:

1. Draft and Final Updated WJCTC Public Involvement Plan
2. Technical Memorandum, which describe the results and recommendations of the public outreach program
3. Draft and final recommendations and strategies, including all tables and graphics
4. Assist with the development of any reports requested by FHWA, FTA or NYSDOT.

The Consultant shall assign key personnel to perform and deliver this scope of services who should have experience with some or all of the following:

1. Public outreach including virtual public outreach
2. Relevant federal regulations
3. Document preparation, formatting and editing
5. Title VI Program Support

The Consultant shall support Watertown-Jefferson County Transportation Councils (WJCTC) Title VI program activities. As a recipient of Federal Funds, WCJTC adheres to Title VI requirements to ensure that public funds are not spent in a way that encourages, subsidizes or results in discrimination. The goal of Title VI is to remove barriers that prevent protected groups and persons from receiving access, participation and benefits from Federally-assisted programs, services and activities.

Working with and through the TA Project Manager (TA PM), the Consultant shall undertake some or all of the following Title VI related support activities (a modest amount of additional supporting task work may be defined and required after notice to proceed):

1. Review of federal requirements for evaluation of current Title VI program including Limited English Proficient (LEP) Plan
2. Review and update of current Title VI program components such as policy statements, assurances, complaint procedures, etc. As needed develop documented Title VI Plan.
3. According to federal guidelines, collect U.S. Census datasets and prepare demographic/planning area profile maps for Limited English Proficient (LEP) population and other underserved communities.
4. Analyze and identify areas of LEP population.
5. Assist in the development of a LEP plan to ensure public access to WJCTC documents, website and public involvement activities.
6. If requested, provide LEP support services, including translation of documents and notices, or evaluation of translation services for accuracy and clarity.
7. Review and update, as needed, Public Involvement Plan for Title VI considerations.
8. Assist with annual Title VI reports.
9. Assist with the development of any reports requested by FHWA, FTA or NYSDOT.

Deliverables for these activities may include the following:

1. Technical Memorandum, describing results and recommendations for Title VI program.
2. Draft and final Updated WJCTC Title VI program components and Title VI Plan as needed.
3. Draft and final profile maps for LEP population and other underserved communities.
4. GIS files and related geodatabase used to create maps for the analysis, in formats suitable for hard-copy publication and for posting on the WJCTC web site.
5. Technical Memorandum, describing the results and recommendations for the LEP plan.
6. Technical Memorandum, describing the results and recommendations for the Public Involvement Plan.
7. Draft material for Title VI reports.

The Consultant shall assign key personnel to perform and deliver this scope of services who should have experience with some or all of the following:

1. Good understanding of relevant Federal regulations
2. Strong GIS and GIS-related technical skills
3. Document preparation, formatting and editing
4. Good verbal and written communication skills
5. Knowledge of resources to serve LEP population and underserved communities (e.g. translation services)
6. Performance of Transportation Studies

The Consultant shall conduct transportation planning studies as needed in the Watertown Jefferson County Transportation Council (WJCTC) area. Transportation planning study needs are determined through the development of the WJCTC Long-Range Transportation Plan (LRTP) and are defined and prioritized in the WJCTC annual Unified Planning Work Program (UPWP). Individual planning studies may focus on various regional transportation modes, aspects or activities including but not limited to highways, bridges, streets, public transportation, bicycle and pedestrian facilities, goods movement, special needs transportation and operations and management of transportation system.

Working with and through the TA Project Manager, the Consultant shall undertake the following types of activities in support of conducting the necessary planning studies for the WJCTC area (depending on the topic of the study, a modest amount of additional supporting task work may be defined and required after notice to proceed):

1. Providing technical analysis on current conditions and potential future trends (e.g. traffic, emissions, mobility, accessibility, etc.)
2. Conducting GIS mapping analysis of project area
3. Evaluating and identifying gaps in existing system
4. Assessing relevant regional transportation needs and impacts on system
5. As necessary, assessing other aspects related to planning area (e.g., economic development, environmental justice, emission reduction, environmental concerns, ADA considerations, system resiliency)
6. Collaborating with internal and external stakeholders
7. Preparation and execution of extensive Public Involvement
8. Developing and conducting public surveys and other outreach mechanisms (e.g. website and social media posts, etc.)
9. Developing supportive Plan documentation such as maps, figures and tables
10. Drafting and finalizing final plan document

Deliverables for these activities may include the following:

1. Technical memorandum describing the Public outreach program and schedule
2. Research and documentation related to technical data analysis
3. Research and documentation on gap analysis/system needs
4. Draft and final supporting Plan elements (e.g. surveys, maps, tables, etc.)
5. Draft and final Plan documents

The Consultant shall assign key personnel to this Scope of Services who should have experience with some or all of the following:

1. Regional planning
2. Public outreach including virtual public outreach
3. Transportation traffic analysis
4. Project planning
5. GIS mapping
6. Freight, non-motorized and human services transportation
7. Document preparation, formatting and editing
7. Transportation Performance Management (TPM) System Performance Report Support

The Consultant shall support preparation of a System Performance Report to be amended into the Long-Range Transportation Plan in fulfillment of federal Transportation Performance Measurement (TPM) requirements. The system performance report evaluating the condition and performance of the transportation system with respect to the performance as well as the progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports, including baseline data. The first such report will be due on the date specified in the Task Assignment request and every two years thereafter.

Working with and through the TA Project Manager, the Consultant shall undertake some or all of the following activities in support of TPM System Performance Report development (a modest amount of additional supporting task work may be defined and required after notice to proceed):

1. Any applicable post-processing of outputs from WJCTC’s transportation or traffic models
2. Preparation of metrics and graphics to demonstrate and forecast transportation system performance
3. Drafting of report sections for review by WJCTC’s members
4. Development of report maps, figures and tables and visualizations for public outreach
5. Coordinate with NYSDOT Main Office on TPM data analysis
6. Assist with the development of any reports requested by FHWA, FTA or NYSDOT

Deliverables for these activities may include the following:

1. Draft and final report sections as assigned, including all required metrics and graphics, maps, figures and tables

The Consultant shall assign key personnel to perform and deliver this scope of services who should have experience with some or all of the following:

1. Federal transportation performance management requirements
2. Transportation demand modelling
3. GIS mapping
4. Document preparation, formatting and editing
8. Socio-Economic and Demographic Forecast Support

The Consultant shall provide support any Socio-Economic and Demographic Forecast services to support any work specified in the approved annual Watertown-Jefferson County Transportation Council’s (WJCTC) Unified Planning Work Program (UPWP). The UPWP defines the planning priorities in WJCTC’s planning area and describes all federally-funded transportation-related planning activities anticipated within a given program year, some of which may entail Socio-Economic and Demographic Forecast activities.

Working with and through the TA Project Manager, the Consultant shall undertake some or all of the following Socio-Economic and Demographic Forecast activities in support of implementing WJCTC’s UPWP task work (a modest amount of additional supporting task work may be defined and required after notice to proceed):

1. Socioeconomics and Demographics Forecasts — Develop and analyze socioeconomic and demographic forecasts for the WJCTC region. Provide the necessary forecast data to WJCTC’s traffic model and for updates to the Long-Range Transportation Plan (LRTP).

2. Assist in holding working meetings, which may periodically review various draft statistical tabulations, draft forecasts with WJCTC member agencies, and to forward progression of drafts deliverables. Resultant forecasts may be inputs to WJCTC’s transportation model or may be based on other external models; socio-economic and demographic data may be made available to NYSDOT and/or incorporated into WJCTC’s Long-Range Transportation Plan; results may be used by members of the WJCTC MPO in their respective transportation studies and project development.

3. Preparing reports on WJCTC socio-economic and demographic data and forecasts for the public review process, participating in the public review meetings, and preparing written reply to the public comments.

4. Monitoring of Demographic and Socioeconomic Data — Prepare and produce publications, such as: data tables on Regional Demographic Statistics, County, Regional Data Profiles, and Project Development Inventory.

5. Database — Oversee data collection activities to ensure that data are available to meet all federal requirements under Federal Regulations. Support the demographic and socioeconomic data needs of WJCTC members and the general public as requested, and maintain current database for them.

6. Agency Representation—when directed by WJCTC, represent WJCTC with other entities in matters involving databases, data collection efforts, and forecasting as requested.

Deliverables:

1. Data extraction, SED model runs and analyses for various scenarios.
2. Analytical reports on demographic and socioeconomic trends in the Watertown metropolitan region.
3. Data files in Access, Excel, and GIS formats containing socioeconomic data at the census tract and Traffic Analysis Zone (TAZ) levels.
4. Updates to Project Development Inventory.
5. Arrange working group meetings and prepare minutes and meeting summaries and follow-ups.
6. Answers to data requests.
7. Create and maintain Forecasting Web page content for WJCTC’s website

The Consultant shall assign key personnel to perform and deliver this scope of services who should have experience with some or all of the following:

1. Strong technical skills in the development and analysis of demographic and socioeconomic forecasts for smaller metropolitan areas, and knowledge of demographic and economic models
2. Familiarity with MPO socioeconomic demographic (SED) models, and models developed by vendors, such as IHS Markit and REMI
3. Experience in collecting and analyzing demographic, socioeconomic, and land use data using software such as SPSS, GIS, and Access
4. Experience in demographic, socioeconomic, and land use data monitoring and maintaining of the data as required under Federal Regulations
5. Good writing, editing skills and organization skills to prepare technical reports as required
6. Good verbal skills and interpersonal skills in giving presentations and holding meetings with WJCTC members as well as the public

1: To ensure the safety and security of data, the selected Consultant may need to abide by NYS’s IT Technical Requirements and Policies to put a workable and acceptable technical solution put in place. Methods to do so are part of the ITS Technical Requirements and Policies. Secure use of data is, in part, driven by the Data Classification as determined by NYSDOT Risk Management. Any applicable IT Technical Requirements and Policies will be shared with the selected Consultant after award; such shall be included in a Task Assignment Request which involves generation of data to be shared with NYSDOT.
9. Geographic Information System (GIS) Support

The Consultant shall provide support for any Geographic Information System (GIS) services required to support any work specified in the approved annual Watertown-Jefferson County Transportation Council’s (WJCTC) Unified Planning Work Program (UPWP). The UPWP defines the planning priorities in WJCTC’s planning area and describes all federally-funded transportation-related planning activities anticipated within a given program year, some of which may entail GIS activities.

Working with and through the TA Project Manager, the Consultant shall undertake some or all of the following GIS activities in support of implementing WJCTC’s UPWP task work (a modest amount of additional supporting task work may be defined and required after notice to proceed):

1. Develop and maintain WJCTC region GIS data
2. Develop quality assurance/quality control (QA/QC) protocols for the development and maintenance of WJCTC data
3. Collect and maintain GIS data (Transportation, Demographic, Environmental, etc.) from WJCTC, WJCTC member, and other sources
4. Develop and maintain WJCTC’s GIS web section with the associated applications on WJCTC’s website; support web-based application projects
5. Analyze and integrate GIS databases including NPMRDS, NHTS, land use, demographic, environmental, etc.
6. Produce complex maps to support TIP, LRTP, and other WJCTC outreach processes, with some examples being:
   a. Developing maps in accordance with requirements for different business areas
   b. Developing WJCTC map templates
   c. Developing an automated mapping program to meet repetitive mapping needs
   d. Making mapping easier for non-GIS users
   e. Enabling maps to be viewed and printed from the WJCTC GIS web site.
7. Develop a web-based map application to be utilized by public to view the speed and travel time data
8. Analyze/mapping the travel characteristic data to support modeling and planning projects
9. Assist WJCTC’s modeling efforts as directed
10. Prepare training material and provide training at WJCTC’s office to other GIS users (WJCTC staff)

The Consultant shall assign key personnel to perform and deliver this scope of services who should have experience with some or all of the following:

1. Strong Python/ C++ / Java/Visual Basic programming skills
2. Suitable experience in Application development using ArcObjects within ArcGIS 10.x, ArcGISEngine and ArcGIS Server
3. Appropriate experience in GIS Database Design for Transportation data using GeoDatabase, MS-Access, ArcSDE, Oracle and SQL Server
4. Strong GIS Programming skills with ArcGIS
5. Working knowledge of graphical representation of data to produce GIS applications and maps using ArcGIS (and possibly TransCAD)
6. Strong technical background to conduct statistical analysis and data manipulation in addition to graphical representation of data
7. Strong communication and presentation skills
10. Travel Survey Support

The Consultant shall provide Travel Survey services required to support any work specified in the approved annual Watertown-Jefferson County Transportation Council’s (WJCTC) Unified Planning Work Program (UPWP). The UPWP defines the planning priorities in WJCTC’s planning area and describes all federally-funded transportation-related planning activities anticipated within a given program year, some of which may entail travel survey activities. This task assignment request may entail development and analysis of travel surveys, statistical analyses with statistical software packages, preparation of technical reports as required, and presentation of a range of travel survey data analyses for WJCTC.

Working with and through the TA Project Manager, the Consultant shall undertake some or all of the following travel survey activities in support of implementing WJCTC’s UPWP task work (a modest amount of additional supporting task work may be defined and required after notice to proceed):

1. Research travel surveys to be implemented by the WJCTC. Work with survey experts on tasks involving survey design and implementation, including sampling design, recruitment instrument design, retrieval instrument design, pretest design, survey process and procedures, quality measures and standards, and other related tasks as directed

2. Prepare briefings and reports on the research performed for new travel surveys and the coordination efforts with WJCTC staff, members and others in travel surveys related matters

3. Analyze existing travel survey data, develop data products for users, prepare reports based on the analysis of existing survey data as requested by WJCTC, and produce analytical reports of and survey data describing travel patterns in the region

4. Research and make recommendations on the design of web-based templates for users to extract and analyze the available survey data from the web. Research and make recommendations on improving the WJCTC Travel Surveys web pages. Prepare reports on the recommended updates and improvements to WJCTC’s web pages

5. Coordinate survey data needs, application needs, information sharing, and data integration. Prepare briefings regarding travel surveys related matters

6. Attend meetings related to WJCTC’s travel surveys and provide meeting summaries

The Consultant shall assign key personnel to perform and deliver this scope of services who should have experience with some or all of the following:

1. Strong technical skills in the development and analysis of travel surveys

2. Experience in analyzing travel surveys data using statistical software package such as SPSS

3. Good writing, editing skills and organization skills to prepare technical reports as required

4. Good verbal skills and interpersonal skills in the research, reporting and analysis of travel surveys data
11. Traffic Model and Forecasting Support

The Consultant shall provide Traffic Model and Forecasting support services required to technically support any work specified in the approved annual Watertown-Jefferson County Transportation Council’s (WJCTC) Unified Planning Work Program (UPWP). The UPWP defines the planning priorities in WJCTC’s planning area and describes all federally-funded transportation-related planning activities anticipated within a given program year, some of which may entail traffic modeling and forecasting.

Working with and through the TA Project Manager, the Consultant shall undertake some or all of the following activities in support of implementing WJCTC’s traffic model and forecasting task work (a modest amount of additional supporting task work may be defined and required after notice to proceed):

1. Analyze the needs and requirements of WJCTC region in terms of travel demand modeling and goods movements analysis
2. Implement and test new and improved version of traffic modeling software, Graphical User Interface, model graphics, and reports
3. Provide assistance in traffic modeling update and improvement including networks (highway and transit) update; review of applicable tech memos and testing results
4. Enhance and test transit component of WJCTC traffic models in order to better replicate transit travel in the region and to support other transportation planning activities (e.g., air quality analysis, conformity analysis, Long-Range Transportation Plan updates, other studies in the region, etc.
5. Support the maintenance of WJCTC traffic modeling and forecasting platforms
6. Conduct testing of all deliverables before they can be accepted by WJCTC
7. Provide assistance in development, testing and implementation of a new transportation-emission model and Post Processor software for conformity analysis, energy consumption and greenhouse gas analysis

The Consultant shall assign key personnel to perform and deliver this scope of services who should have experience with some or all of the following:

1. Knowledge and experience in computer programing languages which support implementation of traffic modeling and forecasting
2. Good working knowledge of transportation and traffic modeling practices, especially for small to medium sized metropolitan areas
3. Excellent background in travel demand forecasting models
4. Knowledge and experience with Air Quality analysis and MOVES
5. Strong computing, analytical, and communication skills
6. Excellent interpersonal skills
7. Strong written and verbal communication skills
12. Grant Support

The Consultant shall support the annual solicitation of project proposals from the public and/or the WJCTC members for funding consideration under various federal funding programs and the selection of projects for funding. Programs for which WJCTC has project solicitation responsibility include Section 5310 Enhanced Mobility of Seniors & Individuals with Disabilities; the Transportation Alternative set-aside of the Surface Transportation Block Grant Program; and the Congestion Mitigation/Air Quality Improvement Program. WJCTC also supports the preparation of project proposals for various discretionary federal funding programs.

Working with and through the TA Project Manager, the Consultant shall undertake some or all of the following activities in support of grant program solicitations (a modest amount of additional supporting task work may be defined and required after notice to proceed):

1. Preparation and execution of a public outreach and education program as appropriate
2. Review of project proposals received for completeness and against eligibility criteria
3. Loading of project information into relevant databases and/or content management software
4. Convening of project review committees and assembly of committee rating information
5. Ranking of project proposals based on committee ratings
6. Preparation of final materials and information for consideration and action by the applicable WJCTC’s Committee
7. Support activities could also include preparation of relevant TIP and Plan actions once project selection has been finalized

Deliverables: Deliverables for these activities may include the following:
1. Technical memorandum describing the TIP public outreach and education program, and schedule
2. Technical memorandum describing the ranking of project proposals based on committee ratings and a summary of the methodology/criteria employed

The Consultant shall assign key personnel to perform and deliver this scope of services who should have experience with some or all of the following:
1. Working knowledge of applicable grant programs, regulations and requirements
2. Public outreach and education, including virtual public outreach
3. Databases
4. GIS mapping

The Consultant shall support development of draft updates to Watertown-Jefferson County Transportation Council’s (WJCTC) Operations Plan (please visit: https://www.wjctc.org/images/P21517_COR_Watertown_Operations_Plan_Final.pdf). This activity shall be delivered in a confidential manner, subject to assigned Key Personnel agreeing to sign a project-level non-disclosure agreement (NDA).

Working with and through the WJCTC Project Manager, the Consultant shall undertake some or all of the following activities in support of updating operations plan components (a modest amount of additional supporting task work may be defined and required after notice to proceed)

1. Updated draft Operations Plan components and recommendations for discussion with the members and key staff managers, including all tables and graphics

Deliverables for these activities may include the following:

1. Technical Memorandum describing projection of workload based on a schedule
2. Draft Operations Plan updates with draft implementation agenda, including all tables and graphics

The Consultant shall assign key personnel to perform and deliver this scope of services who should have experience with some or all of the following:

1. Operational governance
2. Strategic planning
3. Management consulting
4. Organizational planning
5. Meeting facilitation
6. Document preparation, formatting and editing