

*The Empire State*

# New York State



Department of Transportation

## **DESIGN-BUILD PROCEDURES MANUAL**

### **APPENDIX A**

### **ABBREVIATIONS, SYMBOLS, AND TERMS AND DEFINITIONS**

This Appendix A is for added reference, see Volume III, Exhibit III, Division 2, Part 2, DB Section 101.

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**DBPM – APPENDIX A**  
**ABBREVIATIONS, SYMBOLS, AND TERMS AND DEFINITIONS**  
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**ABBREVIATIONS, SYMBOLS, AND TERMS AND DEFINITIONS**

Wherever in these Plans, Specifications, or other Contract Documents the following terms, abbreviations, or symbols are used, the intent and meaning shall be interpreted as follows in this Section 101.

**DB 101-1 ABBREVIATIONS**

Wherever the following abbreviations are used in these Contract Documents, they are to be construed the same as the respective expressions represented. Some of these abbreviations may be acronyms and may appear without periods.

A.A.N	American Association of Nurserymen
A.A.R.	Association of American Railroads
A.A.S.H.T.O	American Association of State Highway and Transportation Officials
A.G.C	Associated General Contractors of America
A.I.A.	American Institute of Architects
AISC	American Institute of Steel Construction
A.I.S.I.	American Iron and Steel Institute
A.N.S.I.	American National Standards Institute, Inc.
A.O.A.C.	Association of Official Agricultural Chemists
A.R.A.	American Railway Association
A.R.E.A.	American Railway Engineering Association
A.R.T.B.A	American Road and Transportation Builders Association
A.S.C.E.	American Society of Civil Engineers
A.S.L.A.	American Society of Landscape Architects
A.S.M.E.	American Society of Mechanical Engineers
A.S.T.M.	American Society for Testing and Materials
A.W.P.A.	American Wood-Preservers Association
A.W.S.	American Welding Society
A.W.W.A.	American Water Works Association
BAFO	Best and Final Offer
CCE	Construction Compliance Engineer
CCM	Construction Compliance Monitor
CD-ROM	Compact Disc – Read Only Memory
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CFR	Code of Federal Regulations
CPM	Critical Path Method
CRU	Contract Review Unit
CSL	Contract Submittal List
DB	Design-Build
DBA	Decibels, A-scale
DBE	Disadvantaged Business Enterprise
DCE	Design Compliance Engineer
D.C.E.D.	Deputy Chief Engineer for Design
D.C.E.S	Deputy Chief Engineer for Structures Design and Construction
D.C.E.T.S.	Deputy Chief Engineer for Technical Services
DCM	Design Compliance Monitor
DONSI	Determination of No Significant Impact
DRB	Disputes Review Board
E.E.I.	Electrical Engineering Institute

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EIS	Environmental Impact Statement
EMT	Emergency Medical Technician
EODC	Equal Opportunity Development and Compliance
EPA	Environmental Protection Agency
FAR	Federal Acquisition Regulations
FHWA	Federal Highway Administration
FONSI	Finding Of No Significant Impact
F.S.S.	Federal Specifications and Standards, General Services Administration
IA	Independent Assurance
ISO	International Standards Organization
ISTEA	Inter-modal Surface Transportation Efficiency Act of 1991
ITP	Instructions to Proposers
ITS	Intelligent Transportation System
LLC	Limited Liability Company
LOI	Letter of Interest
MAP	Manual of Administrative Practices
MBE	Minority-owned Business Enterprise
MPO	Metropolitan Planning Organization
MPT	Maintenance and Protection of Traffic
MSDS	Material Safety Data Sheet
M.U.R.K.	Manual on Uniform Record Keeping
M.U.T.C.D.	Manual of Uniform Traffic Control Devices
N/A	Not Applicable
NCR	Non-Conformance Report
N.E.M.A.	National Electrical Manufacturers Association
NEPA	National Environmental Policy Act
NHS	National Highway System
NPDES	National Pollutant Discharge Elimination System
NTP	Notice to Proceed
NYCRR	Official Compilation of Codes, Rules and Regulations of the State of New York
NYSDED	New York State Department of Economic Development
NYSDEL	New York State Department of Labor
OEODC	Office of Equal Opportunity Development and Compliance
OOC	Order on Contract
OQA	Owner's Quality Assurance
OSHA	Occupational Safety & Health Administration, United States Department of Labor
PC	Price Center
P.C.C.M.	New York State Prestressed Concrete Construction Manual
PCP	Progress Check Point
PCV	Price Center Value
PE	Preliminary Engineering
PPS-C	Contract Periodic Payment Schedule
PPS-P	Proposal Periodic Payment Schedule
PS	Performance Specification
QA	Quality Assurance
QC	Quality Control
QCM	Quality Control Manager
RFP	Request for Proposals
RFQ	Request for Qualifications
RLOI	Request for Letter of Interest

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ROD	Record of Decision
ROW	Right Of Way
R.M.E.	Regional Materials Engineer
S.A.E.	Society of Automotive Engineers
SBA	Small Business Administration
S.C.M.	New York State Steel Construction Manual
SEP-14	Special Experimental Project 14
SHPO	State Historic Preservation Office
SI	International System
SOQ	Statement of Qualifications
SP	Special Provision
SPDES	State Pollutant Discharge Elimination System
S.P.N.	Standardized Plant Names adopted by The American Joint Committee on Horticultural Nomenclature
S.S.P.C.	Steel Structures Painting Council
STAA	Surface Transportation Assistance Act of 1982
STURAA	Surface Transportation and Uniform Relocation Assistance Act of 1987
TBD	To Be Determined
TEA-21	Transportation Equity Act for the 21 <sup>st</sup> Century
US	United States
USC	United States Code
USDOL	United States Department Of Labor
US DOT	United States Department Of Transportation
UST	Underground Storage Tank
VE	Value Engineering
VECP	Value Engineering Change Proposal
WBE	Women-owned Business Enterprise
WBS	Work Breakdown Structure

### **DB 101-2 SYMBOLS**

Some of the symbols for units of measurement used in the Contract Documents are defined as shown in Table 101-A. The symbols for other units of measurement used in the Contract Documents are as defined in A.S.T.M. (American Society for Testing and Materials) Designation E-380, or in the various specifications and tests referenced in the Contract Documents.

**TABLE 101-A - SYMBOLS**

As used in the Contract Documents	Definition
ft	feet
in	inches
mm	millimeter
m	meter
km	kilometer
km/h	kilometer per hour
mm <sup>2</sup>	square millimeter
m <sup>2</sup>	square meter
ha	hectare (10 000 m <sup>2</sup> )
km <sup>2</sup>	square kilometer
mm <sup>3</sup>	cubic millimeter
m <sup>3</sup>	cubic meter
L	liter
g	gram
kg	kilogram
t	metric ton (1 000 kg)
Pa	Pascal
kPa	kilopascal
MPa	megapascal
N	Newton
m <sup>3</sup> /s	cubic meter per second
kg/m <sup>3</sup>	kilogram per cubic meter
°C	degree Celsius

**DB 101-3 TERMS AND DEFINITIONS**

When the following terms are used in the Plans, Specifications, other Contract Documents, and Department correspondence, the intent and meaning shall be interpreted as follows:

**Acceptance** - A determination by the Federal Highway Administration (FHWA.) regarding compliance with applicable Governmental Rules.

**Acceptance Program** - All factors that comprise the Department’s determination of the quality of the product as specified in the Contract Documents. These factors include Verification Sampling and Testing and Department Oversight and auditing of the Design-Builder’s activities and may include the Design-Builder’s Quality Control (QC).

**Act of God** - An unusual, sudden, and unexpected manifestation of the forces of nature, the effect of which could not have been prevented by reasonable human foresight, pains, and care.

**Addenda** - Supplemental additions, deletions, and modifications to the provisions of the Request for Proposals (RFP), including the Standard Specifications, after the Advertisement date of the RFP.

**Administrative Plans** - Those Plans that contain general project or plan information such as cover sheets, index sheets, and similar non-technical information.

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**Advertisement** - A public announcement inviting prospective Proposers to obtain a Request for Qualifications (RFQ) or RFP and submit a Statement of Qualifications (SOQ) or a Proposal, as applicable.

**Affiliate** - Any Person which directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the following:

- A) The Design-Builder; or
- B) Any Principal Participant.

An Affiliate may also be any Person for which 10% or more of the equity interest in such Person is held directly or indirectly, beneficially or of record, by the following:

- 1) The Design-Builder;
- 2) Any Principal Participant; or
- 3) Any Affiliate of the Design-Builder under part (A) of this definition.

For purposes of this definition, the term “control” means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, by family relationship, or otherwise.

**Alternate Proposal** - A Proposal submitted with the base Proposal that supplements, but does not substitute for, the base Proposal that responds to the RFP requirements. An Alternate proposal shall not conflict with criteria contained in the environmental documents (ROD, FONSI, or categorical exclusion, as appropriate for the Project). An Alternate proposal may provide alternate solutions (affecting both quality and price) relating to, but not limited to, the Design-Builder’s capability, resources, management tools, and design, construction and technical innovation, that are almost always, but not necessarily, outside of the requirements of the RFP, except for the environmental criteria.

**Amendment** - A formal alteration by addition, deletion, or modification of the terms of the executed Contract.

**Approval** - The Department’s written statement indicating that the subject Work complies with Contract requirements. Approvals will only be given for those submittals, activities, or Work specifically identified for “Approval” or “approval” in the Contract Documents. *See also* DB Section 105-15.

**Approved List** - The list of Materials, Equipment, Manufacturers, fabricators, or Material Suppliers approved by the Materials Bureau under a particular Specification. The Approved Lists are published periodically and are available from the Materials Bureau.

**Artificial Activity** - An activity that is not encompassed within the meaning of the definition of Work.

**As-Built Plans** - Final Plans reflecting the Work as actually performed under the Contract.

**Award** - The decision of the Department to accept a responsive Proposal from a responsible Proposer that provides the best value to the Department for the Work identified in the RFP, subject to the execution and approval of a satisfactory Contract, provision of Labor and Material and Performance Bonds to secure the payment and performance thereof, provision of such insurance as is required under the Contract, and the satisfaction of such other conditions as may be specified or otherwise required by law.

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**Baseline Progress Schedule** - The time-scaled, cost-loaded, and resource-loaded Critical Path network, updated from time to time in accordance with the Contract and depicting the Price Centers and subordinate activities and their respective prices (distributed over time), durations, sequences, and interrelationships that represent the Design-Builder's Work plans; the Design-Builder's Work Breakdown Structure (WBS) for designing, constructing, and completing the Project; and the Contract Price, distributed over the period of the Contract.

**Basic Project Configuration** - The salient characteristics of the Project as defined and/or illustrated in the RFP, including any permitted deviations thereto contained in the Design-Builder's Proposal. Basic Project Configuration elements may include the following:

- A) The horizontal and vertical alignments;
- B) Number of intersections/overpasses/underpasses;
- C) Number, location and type of interchanges;
- D) Number and type of signalized intersections;
- E) Number of lanes;
- F) The general location of the limits of the Project;
- G) The minimum vertical clearances; and
- H) The Right of Way (ROW) limits.

**Basic Project Configuration Plan** - The Plan designated as such in the Contract Documents that depicts the Basic Project Configuration within the limits specified in the Contract. In general, the Basic Project Configuration Plan describes fundamental elements of the Project that must be included as part of the final design and construction.

**Basis of Payment** - The terms under which the Design-Builder is paid for Work.

**Bridge** - The term Bridge shall apply to any structure, whether single or multiple span construction, with a clear span in excess of 6 096 mm when measurement is made horizontally along the center line of Roadway from face to face of abutments or sidewalls immediately below the copings or fillets; or, if there are no copings or fillets, at 152 mm below the bridge seats or immediately under the top slab, in the case of frame structures. In the case of arches, the span shall be measured from spring line to spring line. All measurements shall include the widths of intervening piers or division walls, as well as the width of copings or fillets.

**Calendar Day** - Every Day shown on the calendar, beginning at 12:00 a.m. Eastern time.

**Chief Engineer** - The Chief Engineer of the New York State Department of Transportation.

**City** - A subdivision of the State of New York that may be used to designate or identify the location of the proposed Work.

**Commissioner** - The Commissioner of the New York State Department of Transportation.

**Composite Items** - Items that consist of rock and non-rock components and are limited to unclassified excavation and trench excavation.

**Comptroller** - The head of the Office of the State Comptroller.

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**Construction Compliance Engineer** - The Department's representative with primary responsibility for monitoring and/or auditing the Design-Builder's construction and environmental field activities for compliance with the Contract's requirements.

**Construction Compliance Monitor** - A representative of the Construction Compliance Engineer (CCE), with responsibility for monitoring and/or auditing the Design-Builder's construction activities for compliance with the Contract's requirements.

**Construction Subcontractor** - A Subcontractor (or Affiliate) retained by the Design-Builder that is involved in the actual construction of the Project.

**Construction Zone** - The area from the first traffic control sign announcing that roadwork is being performed ahead to the last sign announcing the end of the roadwork.

**Constructor** - A Principal Participant or Subcontractor (or Affiliate) retained by the Design-Builder that is involved in the actual construction of the Project.

**Consultation and Written Comment** - The Department's reviews, observations, and/or inspections based solely on information submitted by the Design-Builder (not based on any independent investigation or inquiry by the Department) and the Department's written responses resulting from such Department actions. *See also* DB Section 105-15.

**Contract** - The written agreement between the Department and the Design-Builder setting forth the obligations of the parties thereunder, including, but not limited to, the performance of the Work, the furnishing of labor and Materials, and the Basis of Payment. The Contract includes the Contract Documents identified in the RFP, the Design-Builder's Proposal Information, the Design-Builder's Price Proposal (with the exception of the Proposal Bond), the Notice To Proceed (NTP), and any Supplemental Agreements, Amendments, and Orders on Contract that are required to complete the design and construction of the Work in an acceptable manner, including authorized extensions thereof, all of which constitute one instrument.

**Contract Documents** - The Contract Documents shall include the Agreement, DB Section 100, Design Criteria, Performance Specifications, Standard DB Special Provision to the Standard Specifications, DB Utility requirements, RFP Plans, engineering data, New York State Department of Transportation Standard Specifications (construction and Materials), the Design-Builder's Proposal Information, the Design-Builder's Price Proposal (with the exception of the Proposal Bond), any Addenda to the Specifications, and all provisions required by law to be inserted in the Contract whether actually inserted or not. Whenever separate publications and the New York State Department of Transportation's Standard Specifications are referenced in the Contract Documents, it is understood to mean the publication and Specifications, as amended, which are current on the date of Advertisement, unless otherwise noted.

**Contract Item** - A specifically described unit of Work for which a price is provided in the Contract.

**Contract Price** - The total amount paid for the Work to be performed under the Contract, as it may be adjusted from time to time to account for Orders on Contract.

**Contract Time** - The time specified in the Contract and/or RFP for completion of the Contract. This time may be defined as a specified fixed date, a given number of Work Days, a given number of Calendar Days, or a combination of the above. The Contract Time may be amended by mutual written agreement to include authorized extensions of time, as the performance of the Contract requires.

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**Cost** - All expenditures, including design costs, wholly and necessarily incurred, whether on or off the Site, with respect to the Work and overhead, finance, and other charges properly allocable thereto. Cost does not include any allowance for profit.

**County** - A subdivision of the State of New York that will be used to designate or identify the location of the proposed Work.

**Critical Path** - Each path shown on the Baseline Progress Schedule for which there is zero float.

**Cultural Resource** - Any prehistoric or historic period artifact, site, building, structure, material remain, or traditional use area resulting from, or associated with, human cultural activity. Historically important cultural resources are those eligible for inclusion on the National Register of Historic Places.

**Culvert** - The term Culvert shall apply to any structure, whether of single or multiple span construction, with an interior width of 6 096 mm or less when measurement is made horizontally along the center line of roadway from face to face of abutments or sidewalls immediately below the copings or fillets, or, if there are no copings or fillets, at points 152 mm below the bridge seats or immediately under the top slab in the case of frame structures. In the case of arches, the span shall be measured from spring line to spring line. All measurements shall include the widths of intervening piers or division walls, as well as the widths of copings or fillets.

**Day** - A Calendar Day, unless otherwise defined or modified.

**Definitive Design** - The point in the design process at which the design concepts are defined and the Basic Project Configuration is finalized.

**Department** - The New York State Department of Transportation, including staff and managers who have been delegated certain contractual and technical authority by the Commissioner. The Department maintains a Web site at [www.dot.state.ny.us](http://www.dot.state.ny.us).

**Department-Directed Changes** - Any changes in the Work as described in the Contract (including changes in the standards applicable to the Work) that the Department has directed the Design-Builder to perform as described in the Contract.

**Departmental Geotechnical Engineer** - The Regional Geotechnical Engineer or his/her authorized representative, or a Geotechnical Engineer of the Geotechnical Engineering Bureau acting at the request of the Regional Geotechnical Engineer.

**Departmental Engineering Geologist** - An Engineering Geologist of the Geotechnical Engineering Bureau authorized by the Director of Geotechnical Engineering Bureau to perform the duties required under these Specifications.

**Department's Project Manager** - The engineer representing the Department and having direct supervision of the administration and execution of the Contract under the direction of the Regional Director.

**Design Acceptance** - Written confirmation by the Department after submittal and review of the As-Built Plans that the design conforms to the Contract Documents and reflects the As-Built conditions. Required as part of Final Acceptance.

**Design-Build** - The Project's delivery methodology under which the Department contracts with a single entity that has responsibility for the design and construction of the Project under a single contract with the Department.

**Design-Build Team** - *See*, Design-Builder.

**Design-Builder** - The Person selected pursuant to the RFP which enters into the Contract with the Department to design and construct the Project (also referred to as the "Design-Build Team").

**Design-Builder's Project Manager** - The Design-Builder's on-site designated representative and single point of contact for all aspects of the Work.

**Design Compliance Engineer** - The Department's representative with primary responsibility for monitoring and/or auditing the Design-Builder's design and engineering activities for compliance with the Contract's requirements.

**Design Compliance Monitor** - A representative of the Design Compliance Engineer (DCE), with responsibility for monitoring and/or auditing the Design-Builder's design activities for compliance with the Contract's requirements.

**Design Documents** - Maps, Design Plans, Project Specifications, reports, calculations, records, submittals, and other specified documents prepared by the Design-Builder and/or Designer in the course of performing Project engineering and design Work.

**Design Plan** - The Plan prepared by the Designer during the design development to represent the Project.

**Design Requirements** - Those Specifications contained the Contract that specify the minimum acceptable technical standards and define the limits within which the design of the Project shall be developed and conducted.

**Design Review** - A comprehensive and systematic examination of the design as specified in the Contract to verify that it is in conformance with the requirements of the Contract, as performed by the Design-Builder for all stages of the design except As-Built Plans, which is performed by the Department. During all stages of the design, except As-Built Plans, the Department will contribute to the review through Oversight including participation, auditing and spot-checking.

**Design Unit** - A distinct portion of the Project of which the design is performed as a contiguous, integrated unit.

**Designer** - A Principal Participant, specialized Subcontractor, or in-house designer that leads the team furnishing or performing the design of the Project.

**Differing Site Condition** - Subsurface or latent physical conditions that are encountered at the Site and differ materially from the conditions indicated in the Contract. Also, unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the type of Work provided for in the Contract, provided in all cases that the Design-Builder had no actual or constructive knowledge of such conditions as of the Proposal Due Date.

**Directive Plans** - Those Plans that depict required elements and components of the Project within specifically defined parameters. The Design-Builder has limited or no latitude to adjust components or details shown on Directive Plans. Examples of Directive Plans include the following:

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- A) Basic Project Configuration Plans that depict the Basic Project Configuration within the limits defined in the Contract;
- B) Standard Plans;
- C) Final Department Plans; and
- D) Right of Way Plans.

**Disadvantaged Business Enterprise** - A for-profit, small business concern which meets the definition set forth in 49 Code of Federal Regulations (CFR) 26.

**Discussions** - Written or oral exchanges that take place after the establishment of the Competitive Range with the intent of allowing the Proposer to revise its Proposal.

**Dispute** - A matter of Contract performance or Contract compensation, including granting of extensions of time, in which there is or may be disagreement between the Design-Builder and the Department and which may involve adjustment of Contract Items or the addition of new items to the Contract, extension of time for performance, and/or adjustments in compensation necessitated by the resolution of such disagreement.

**Employee** - Any person working on the Project and who is under the direction or control of, or receives compensation from, the Design-Builder or any Subcontractor.

**Environmental Approvals** - The Governmental Approvals contained or referenced in the environmental provisions of the Contract.

**Environmental Resource** - The physical and biological components of the human and natural environment.

**Equipment** - All apparatus, machinery, tools, and equipment, together with the necessary supplies for their upkeep and maintenance, necessary for the proper construction and acceptable completion of the Work.

**Erosion Control** - Erosion control is any action taken or item used as part of the Project, or as a separate action, to minimize the destructive effects of wind and water on surface soil. The use and placement of berms and dams, fiber mats, grasses, sod, mulches, slope drains, sediment basins, and drainage systems may be temporary and used only during construction or permanent and installed for the anticipated life of the facility.

**Escrowed Proposal Documents** - Pricing data assembled by the Design Builder, placed in escrow, which supports and explains the basis of the Price Proposal. The Escrowed Proposal Documents are used during Project execution for negotiation of Orders on Contract and resolution of disputes and claims and other purposes set forth in the Contract.

**Fabricator** - An individual, partnership, firm, Limited Liability Company (LLC), corporation, or joint venture with which the Design-Builder subcontracts to assemble, construct, or otherwise substantially alter Material or supplies into assemblies, components, or finished items for inclusion into the Work prior to resale.

**Federal-aid** - Joint cooperative construction or reconstruction of the National Highway System (NHS) and the Dwight D. Eisenhower National System of Interstate and Defense Highways (Interstate) and

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bridges, grade crossing elimination work, or other work performed with monies contributed to the State by the federal government under Title 23 of the USC and amendments thereto.

**Federal-aid Project** - An identification applied to Federal-aid work for the purpose of the records of the FHWA.

**Final Acceptance** - The acceptance of the Work by the Commissioner upon the completion of the Work as defined in the Contract and through Oversight and Design Acceptance of that Work by the Department.

**Final Agreement** - The agreement between the New York State Department of Transportation and the Design-Builder, stating the net increase or decrease of the cost of Work completed from the total cost of Work authorized under the Contract. The Final Agreement includes the Final Estimate as an attachment.

**Final Department Plans** - Those RFP Plans included in the Contract Documents that are 100% complete and approved by the Department and ready for construction

**Final Estimate** - A listing of the final amount and cost of each Contract Item, the total cost of the Contract Work as authorized by the last Order on Contract, the total cost of the Work completed by the Design-Builder, and any deductions from the amount to be paid to the Design-Builder.

**Fixed Quantity Item** - An item of Work where payment is restricted to the quantity stated in the Pricing Information. A Fixed Quantity Item is an item of Work that does not require measurement(s) to establish the actual quantity.

**Float** - The difference between early completion times and late completion times for activities as shown on the Baseline Progress Schedule and including any float contained within an activity as well as any period containing an Artificial Activity.

**Force Account** - The Basis of Payment for the directed performance of design and/or construction Work, with payment based on the actual cost of labor, Equipment, and Materials, and including various constant activities.

**Foreign Contractor** - In the case of an individual, a person who is not a resident of the State; in the case of a partnership, one having one or more partners who is not a resident of the State; and in the case of a corporation, one not organized under the laws of the State.

**Geotechnical Engineering Bureau** - The Department's Geotechnical Engineering Bureau has the responsibility for providing all Geotechnical Engineering Services as part of the Department's Quality Assurance (QA) responsibilities.

**Governmental Approval** - Any approval, authorization, certification, consent, decision, exemption, filing, lease, license, permit, registration, or ruling required by or with any Governmental Person in order to design and construct the Project.

**Governmental Person** - Any federal, state, local, or foreign government; any political subdivision; or any governmental, quasi-governmental, judicial, public, or statutory instrumentality, administrative agency, authority, body, or entity other than the Department.

**Governmental Rule** - Any statute, law, regulation, ordinance, rule, judgment, order, decree, permit, concession, grant, franchise, license, agreement, directive, guideline, policy requirement, other governmental restriction, or any similar form of decision of, determination by, interpretation of, or

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administration of any of the foregoing by any Governmental Person, which is applicable to the Work or the Project, whether now or hereafter in effect.

**Hazardous Materials** - The term Hazardous Materials shall mean any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 United States Code (USC) 9601, et seq.; the Hazardous Materials Transportation Act, 49 USC 5101, et seq.; the Resource Conservation and Recovery Act, 42 USC 6901, et seq.; the Toxic Substances Control Act, 15 USC 2601, et seq.; the Clean Water Act of 1977, 33 USC 1251, et seq.; the Clean Air Act, 42 USC 7401, et seq.; and the New York State Environmental Conservation Law, or any other federal, state, or local statute, law, ordinance, resolution, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, or material.

**Highway** - The whole strip of land bounded by the ROW lines.

**Holidays** - Holidays will be observed as follows, unless otherwise provided by the New York State Executive Law:

- A) New Year's Day;
- B) Martin Luther King Jr.'s Birthday;
- C) Presidents' Day;
- D) Memorial Day;
- E) Independence Day (Fourth of July);
- F) Labor Day;
- G) Columbus Day;
- H) Veterans' Day;
- I) Thanksgiving Day; and
- J) Christmas Day.

If any Holiday above falls on a Saturday or Sunday, the previous Friday or following Monday, respectively, shall be considered a Holiday.

**Incentive/Disincentive** - Predetermined adjustment to the total contract amount for each day or portion thereof that the work is completed ahead of or behind a specific milestone, phase or contract completion date.

**Incremental Costs** - Those costs, if any, which the Design-Builder incurs as a result of a particular circumstance which the Design-Builder would not have incurred but for the circumstance. In determining such costs, one would determine the total cost which the Design-Builder would have incurred had the circumstance not occurred, and subtract such amount from the costs actually incurred. The difference is the "increment." For example, if the Design-Builder originally had to relocate three water lines, and a fourth water line is discovered in the same area which can be relocated by the same crew, subject to the provision of the Contract, the Incremental Costs would be the costs of keeping the crew working the additional time to relocate the fourth water line, and would not include any portion of the expense of moving the crew to the Site in the first place.

**Independent Assurance** - Activities that are an unbiased and independent evaluation of all the sampling and testing procedures, Equipment calibration, and qualifications of personnel (Design-Builder's or Department's) used in the Acceptance Program, including the Design-Builder's QC. The Independent Assurance (IA) agent for the Project will be the Department's Geotechnical Engineering or Materials Bureau.

**Indicative Plans** - Those Plans that represent the nature and type of Work to be designed and constructed as part of the Project and reflect items for which the Department has no particular view on the specific configuration or Material used in the final product, such as the following:

- A) Structure type (concrete or steel);
- B) Pavement type (concrete or asphalt);
- C) Drainage Material or size; or
- D) Pile type.

Indicative Plans do not necessarily reflect the final locations, quantities, or all elements required to complete the design.

**Inspection** - The act of viewing or looking carefully at construction, manufacturing, design, safety, and maintenance practices, processes, and products, including document control and Working Plan review, to ensure the practices, processes, and products comply with the requirements contained in the Contract and activities specified in the Contract, Design Plans, and/or Project Specifications.

**Inspector** - A Design-Builder representative detailed to inspect methods and Materials, Equipment, and Work both on and off the Site of the Project.

**Instructions to Proposers** - Those documents containing directions for the preparation and submittal of information by the Proposers in response to the RFP.

**Interim Payment** - Payments made per Part 5 Special Provision 697.

**Laboratory** - A testing laboratory retained by the Design-Builder for QC sampling and testing or by the Department for Verification Sampling and Testing, including the Department's Geotechnical Engineering Bureau or Materials Bureau.

**Labor and Material Bond** - The approved form of security, executed by the Design-Builder and its Surety or Sureties, guaranteeing the payment of all legal charges, costs, amounts, and debts pertaining to the design and construction of the Work.

**Landscape Development** - Any development or item used as part of the Project or as a separate action through the use, placement, and management of land and elements for aesthetic enhancement, such as decorative surfaces and wall faces, benches, waste receptacles, tables, and plant Materials consistent with a specific, approved landscape architectural Design Plan.

**Landscaping** - The use and placement of plant Materials (trees, shrubs, vines, and certain ground covers) consistent with an approved landscape architectural Design Plan. Planting vegetation for screening and erosion control purposes does not constitute landscaping.

**Land Surveyor** - A Land Surveyor licensed or otherwise authorized to practice surveying under Article 145 and registered or otherwise authorized under Article 130 of the New York State Education Law.

**Laying Length of Pipe** - Meters (laying length) of pipe shall be measured by multiplying the number of whole units by the nominal length of each unit and adding thereto the length of any fractional units incorporated in the Work. The nominal length of a unit or fractional unit shall be the inside measured length from butt end to butt end and exclusive of the bell or groove on the female end.

**Lead Principal Participant** - The Principal Participant that is designated by the Proposer as having the lead responsibility for managing the Design-Builder's organization.

**Listed Material Source** - A local source of Material that may be listed and described in the Plans and in the Contract for possible use on the Project.

**Manufacturer** - A Manufacturer is an entity that operates or maintains a factory or establishment that produces on its premises the Material, Equipment, or supplies obtained by the Design-Builder for incorporation into the Project.

**Material** - Any approved material acceptable to the Commissioner and conforming to the requirements of the Specifications.

**Material Detail** - That information, unique to a particular product, that is necessary to adequately identify it or to describe the proper handling, installation, or use of that product.

**Material Supplier** - A Material Supplier is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. A Material Supplier is a firm that engages in, as its principal business, and in its own name, the purchase and sale of the products in question. A Material supplier who deals in bulk items such as steel, cement, gravel, stone and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Packers, brokers, manufacturer's representatives or other persons who arrange or expedite transactions are not Material Suppliers

**Materials Bureau** - The Department's Materials Bureau has a responsibility in the QA program for Materials to be used on the Contract and maintains a testing facility in Albany, New York.

**Method of Measurements** - The method in which a Contract Item or Pay Item is measured for conformance with the pay unit.

**Minority-owned Business Enterprise** - A business enterprise, including a sole proprietorship, partnership, or corporation that has the following attributes:

- A) It is at least 51% owned by one or more minority group members;
- B) It is an enterprise in which such minority ownership is real, substantial, and continuing;
- C) It is an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
- D) It is an enterprise authorized to do business in the State and it is independently owned and operated.

**Necessary Basic Project Configuration Change** - Material changes in the Basic Project Configuration which are necessary to correct an error, omission, or defect in the Basic Project Configuration Plans as

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shown or described in the Contract (with the understanding that a change shall be deemed “necessary” only if the error, omission, or defect creates a problem which cannot reasonably be corrected without a material change in the Basic Project Configuration).

**Notice to Proceed** - Written notice to the Design-Builder to proceed with some or all of the Work as specified in the Contract including, when applicable, the beginning date of the Contract Time. *See also*, Work Order.

**Order on Contract** - A written order issued by the Commissioner covering contingencies; Extra Work; deductions; increases or decreases; time extensions; and additions, alterations, or omissions to the Plans or Specifications.

**Oversight** - Actions by the Department to satisfy itself that the Design-Builder is designing, constructing and managing the Work in accordance with the Contract Documents. It includes actions identified in the Contract Documents by the terms QA, accept/acceptance, inspect/inspection, audit, ensure, certify, confirm, review, verify or terms of similar import. Department comments as a result of Oversight are conveyed to the Design-Builder through Consultation and Written Comment. Neither the activity of Oversight nor the lack of Consultation and Written Comment on the part of the Department shall be construed to relieve the Design-Builder and its organization from the responsibility and costs for meeting all Contract and regulatory requirements.

**Part** - A major subdivision of the Contract Documents.

**Partial Suspension** - Suspension of Work on some, but not all, items.

**Partnering** - Those actions taken to include all parties with an appropriate and vested interest in the Project in the management of the Project, such that the Project is completed in the most efficient, timely, safe, and cost effective manner for the mutual benefit of all concerned. These actions include, but are not limited to, communication, organization, establishing goals, continuous improvement, problem identification, conflict resolution, and managing change. Interested parties may include, but are not limited to, the Department; the Design-Builder; Subcontractors; Suppliers of goods and services to the Project; the community within which the Project is constructed; the community served by the Project; federal, State, and local governments or other public agencies; and utilities.

**Pay Item** - *See* Contract Item, above.

**Performance Bond** - The approved form of security, executed by the Design-Builder and its Surety or Sureties, guaranteeing performance of all Work in compliance with the requirements of the Contract Documents, including all Orders on Contract, Amendments, and Supplemental Agreements pertaining thereto.

**Performance Specification** - A specification that establishes Contract requirements in terms of design parameters and performance parameters to be met. Also may include parameters for determining performance and corrective action to be taken.

**Periodic Payment Schedule** - The schedule submitted with the Design-Builder’s Proposal (which schedule may be amended by Order on Contract) that will be the basis for the assessment of periodic payments for each Price Center (PC).

**Person** - Any individual, firm, corporation, company, LLC, joint venture, voluntary association, partnership, trust, or unincorporated organization, or combination thereof.

**Plans** - The official Design Plans and applicable Standard Sheets, which show the location, character, dimensions, and details of the Work to be performed.

Also, the Design-Builder's Design Plans showing profiles, typical cross sections, and other details; Working Plans; or exact reproductions which show the location, character, dimensions, and general or specific details of the Work to be done.

**Price Center** - A component of the Project for which the Design-Builder provides a Price Center Value (PCV) for all Work included in that component. A PC may be a major contract item or series of interrelated items as identified in the Pricing Information.

**Price Center Value** - That value allocated by the Design-Builder to a PC as set out in the Pricing Information.

**Price Proposal** - The portion of the Proposal that addresses the Project's cost, Price Centers, Progress Check Points, payment schedule, and Proposal Bond. With the exception of the Proposal Bond, the Price Proposal is included in the Contract Documents at Award.

**Price Proposal Form** - The approved form on which the Department requires a Price Proposal to be prepared and submitted as part of the Proposal for the Work.

**Principal Participant** - Any of the following entities:

- A) The Design-Builder (or Proposer);
- B) An individual firm, all general partners, or joint venture members of the Design-Builder (or Proposer); and/or
- C) All Persons and legal entities holding (directly or indirectly) a 15% or greater interest in the Design-Builder (or Proposer).

**Professional Engineer** - A Professional Engineer licensed or otherwise authorized to practice engineering under Article 145 and registered or otherwise authorized under Article 130 or the New York State Education Law.

**Progress Check Point** - A defined step towards the completion of Work within a PC identified in the Schedule of Progress Check Points.

**Project** - The improvements to be designed and constructed by the Design-Builder and all other Work product to be provided by the Design-Builder in accordance with the Contract Documents.

**Project Specifications** - Those Specifications developed by the Design-Builder to define and control the specific requirements, conditions, means, and methods to be used on the Project. Project Specifications will be based on the Contract requirements, including the Department's Standard Specifications (as modified in the Contract Documents), and shall provide finished products that meet or exceed the quality requirements of the Contract. Project Specifications are subject to the review and Consultation and Written Comment of the Department's Project Manager during Design Reviews.

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

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**Proposal Bond** - The security furnished with a Proposal to guarantee that the Proposer will enter into the Contract if the Proposer's Proposal is accepted and satisfies all other conditions of Award.

**Proposal Due Date** - The date specified in the ITP on which the Proposal is due to the proper representative of the Department.

**Proposal Information** - The documents so designated in the ITP and submitted to the Department by the Proposer/Design-Builder in accordance with the ITP that will be included in the Contract Documents at Award. The Proposal Information is part of the Quality Proposal.

**Proposal Revision** - A supplemental Proposal submitted at the request of the Department allowing a responsive Proposer determined to be in the Competitive Range the opportunity to clarify its initial Proposal, correct Deficiencies or Weaknesses in the initial Proposal, submit additional information requested by the Department and/or desired by the Proposer, and submit a revised Price Proposal. A Proposal Revision is also known as a "Best and Final Offer (BAFO)." A request for Proposal Revision generally follows Discussions between the Department and the Proposers.

**Proposal Revision Due Date** - The date specified by the Department in its request for a Proposal Revision on which the Proposal Revision is due to the proper representative of the Department.

**Proposer** - A Person submitting an SOQ for the Project in response to an RFQ, and if selected for the Short-List, an entity submitting a Proposal.

**Protect in Place** - Any activity undertaken to avoid damaging a Utility which does not involve removing or relocating that Utility, including staking the location of a Utility, avoidance of a Utility's location by construction Equipment, installing steel plating or concrete slabs, encasement in concrete, temporarily de-energizing power lines, and installing physical barriers. For example, temporarily lifting power lines without cutting them would be considered a method in which to Protect in Place, whereas temporarily moving power lines to another location after cutting them would be considered a Temporary Relocation. The term includes both temporary measures and permanent installations meeting the foregoing definition.

**Provisional Sum** - An estimated amount set by the Department and so designated in the Pricing Information serving to provide for payment for specified items of Work or an expenditure which has not been quantified or detailed at the time the Contract is executed, which sum may include provision for Work to be executed or for goods, Materials, or services to be supplied.

**Quality Assurance** - All planned and systematic Oversight actions by the Department necessary to provide confidence that the Design-Builder is performing QC in accordance with the Quality Plan, that all Work complies with the Contract and that all Materials incorporated in the Work, all Equipment, and all elements of the Work will perform satisfactorily for the purpose intended. Oversight actions include, but are not limited to, monitoring and verification of design through auditing, spot-checking and participation in the review of the design, and monitoring and verification of construction through auditing, spot inspections and Verification Sampling and testing at production sites and the Project Site. Quality Assurance also includes Independent Assurance, the Department's Consultation and Written Comment, documentation of QA activities, final inspection and Final Acceptance.

**Quality Assurance Program** - The overall quality program and associated activities including Department QA, Design-Builder QC, the Contract's quality requirements, and the Design-Builder's Quality Plan.

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

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

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

**Quality Plan** - The plan that sets out the Design-Builder's means of complying with its obligations in relation to QC, which plan shall be provided and maintained in accordance with the Contract following Consultation and Written Comment thereof by the Department's Project Manager.

**Quality Proposal** - The portion of the Proposal consisting of the Proposal Information and the Supplemental Selection Information.

**Reasonably Close Conformity** - Compliance with reasonable and customary manufacturing and construction tolerances where working tolerances are not specified. Where working tolerances are specified, Reasonably Close Conformity means compliance with such working tolerances. Without detracting from the complete and absolute discretion of the Department's Project Manager to insist upon such tolerances as establishing Reasonably Close Conformity, the Department's Project Manager may accept variations beyond such tolerances as Reasonably Close Conformity where they will not materially affect the value or utility of the Work and the interests of the State.

**Reasonably Compatible** - For purposes of the cumulative payment percentages shown on the Contract Periodic Payment Schedule (PPS-C), the cumulative percentage shown at the quarter points (25%-50%-75%) on the PPS-C for each PC are within 10% of the cumulative percentages shown on the Baseline Progress Schedule for each PC.

**Reference Documents** - The documents provided with and so designated in the RFP. The Reference Documents, including Plans contained therein and/or so designated, are not Contract Documents and were provided to Design-Builder for informational purposes only and are relied upon at the Design-Builder's own risk.

**Referenced Standard** - Any standard or Specification applicable to the Project established by reference contained in the Contract to a described publication.

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**Region** - One of 11 geographical subdivisions of the State used to designate or identify the location of the proposed Work.

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

**Relocation** - Each removal, relocation, abandonment, and/or protection in place (including provision of temporary services as necessary) of any and all Utilities that is necessary in order to complete the Work as required by the Contract.

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

**Request for Proposals Plans** - Plans prepared by the Department during its PE, to the extent they are identified in the Contract Documents.

**Request for Qualifications** - The written solicitation issued by the Department seeking SOQs to be used to identify and Short-List the Proposers to receive the RFP for the Project.

**Responsible Engineer** - An engineer, employed by the Design-Builder, who has qualified academically, has the requisite practical experience, has passed a recognized examination, and is currently licensed as such in the State of New York and who is in direct charge of the design of a designated Design Unit.

**Right of Way** - A general term denoting land, property, or interests therein (including easements), usually in a strip or parcel acquired for or devoted to a Highway.

**Right of Way Acquisition Schedule** - The schedule for acquisition of ROW permits or easements by the Department set forth in the Contract and/or ITP.

**Roadbed** - The graded portions of a Highway within top and side slopes, prepared as a foundation for the pavement structure and shoulders.

**Roadway** - The portion of a Highway included between the outside edges of the shoulders.

**Road Section** - That portion of a Highway included between the top of the slope in cut and the bottom of slope in fill.

**Safety Plan** - The plan that sets out the Design-Builder's means of complying with its obligations in relation to Project safety, which plan shall be provided and maintain in accordance with DB Section 107-07.5 following Consultation and Written Comment by the Department's Project Manager.

**Samples** - Representative quantities of Materials taken in specified amounts and frequencies for subsequent testing in accordance with specified standard procedures. Or, physical examples of Materials to be supplied or workmanship, which shall establish standards by which the Work shall be judged, provided such samples meet Contract requirements.

**Schedule of Progress Check Points** - The schedule describing the Progress Check Points (PCP) and stipulating dates by which PCPs are to be achieved in order to maintain periodic payments in accordance with the Contract.

**Scope of the Project** - The brief description of the Work to be performed to design and construct the Project as contained in the Contract.

**Section** - A subdivision of the Project or a subdivision of a Part of the Contract Documents.

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

**Shoulder** - The portion of the roadway contiguous with the Traveled Way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.

**Site** - Those areas designated in writing by the Department for performance of Work and such additional areas as may, from time to time, be designated in writing by the Department for the Design-Builder's use in performance of the Work. The Site initially includes the area within the ROW limits. For purposes of insurance, indemnification, safety, security requirements, and payment for use of Equipment, the term Site also includes any areas on which Relocation Work is performed and any property being temporarily used by the Design-Builder for storage of Equipment and/or construction Work.

**Site Security Plan** - The plan that sets out the Design-Builder's means of complying with its obligations in relation to Site security, which plan shall be provided and maintained in accordance with the Contract following Consultation and Written Comment thereof by the Department's Project Manager.

**Soil Mechanics Bureau** - See Geotechnical Engineering Bureau.

**Special Provisions** - Additions and revisions to the Design-Build Standard Specifications Section 100 and the Standard Provisions, Construction and Materials, covering conditions applicable to this individual Project.

**Specialty Items** - Work not usually performed by highway contractors and so designated in the Contract. Work that requires specialized knowledge, skill, or Equipment not ordinarily available in construction organizations and in general limited to minor components of the overall Contract. For purposes of this Contract, all engineering and design Work are considered Specialty Items.

**Specifications** - A general term applied to all provisions and requirements pertaining to performance of the Work.

**Stakeholder** - The Stakeholders for the Project may include the following:

- A) The State, primarily represented by the Department, including its subsidiary agencies and departments;
- B) The FHWA, for Federal-aid projects and projects on or affecting the Dwight D. Eisenhower National System of Interstate and Defense Highways or the National Highway System;
- C) Other states and/or multi-state authorities directly affected by or cooperating with the development of the Project;
- D) Federal and State regulatory and permitting agencies having jurisdiction over portions of the Work;
- E) Counties, cities, towns, and villages within the State directly affected by the Project;

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- F) Other public or private entities impacted or potentially impacted by the Project, such as authorities, Utility Owners, transit systems, and railroads; and
- G) Other entities specifically identified by the Department.

See Part 5 Special Provision 101 for a project-specific list of Stakeholders.

**Standard Plans** - Detailed Plans that depict the dimensional requirements and clearances of certain features of the Project and components, subassemblies, or systems to be incorporated into the Project, issued by the Department or other stakeholder, for general application and repetitive use in connection with the Project.

**Standard Specifications** - The Department's most recent version of its Standard Specifications Construction and Materials, as amended.

**State** - When used, State means the State of New York, represented by the Department through the Commissioner.

**Statement of Qualifications** - The information prepared and submitted by a Proposer in response to the RFQ.

**Structural Steel** - Shapes, plates, H-piling, and sheet piling.

**Structures** - Bridges, culverts, catch basins, drop inlets, retaining walls, cribbing, manholes, endwalls, buildings, sewers, service pipes, underdrains, foundation drains, and other features which may be encountered in the Work and not otherwise classed herein.

**Subcontractor** - Any individual, firm, partnership, joint venture, LLC, or corporation to whom the Design-Builder, with the written consent of the Department, sublets any part of the Contract.

**Substantial Completion** - The point at which the Project, or Section thereof, is complete, such that it can be safely and effectively used by the public without further lane closures, barriers, cones, delays, disruption, or impediments, with all lanes open to traffic, as requested by the Design-Builder and Approved by the Department's Project Manager. For conventional bridge and Highway work, it is the point at which all the following work is complete:

- A) Bridge deck;
- B) Parapet;
- C) Pavement structure, completed to the final configuration of lanes;
- D) Shoulder;
- E) Permanent signing;
- F) Utility Relocations;
- G) Retaining structures;
- H) A minimum of one application of striping;
- I) Traffic barriers; and
- J) Safety appurtenances.

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**Substantial Completion Date** - The Date on which the Design-Builder is required to achieve Substantial Completion, per the Contract Documents.

**Supplemental Agreement** - Written agreement signed by the Department and the Design-Builder to perform work beyond the scope of the original Contract but in conjunction with it.

**Supplemental Selection Information** - Proposal. The Supplemental Selection Information will not be made a part of the Contract Documents at Award. The Supplemental Selection Information is part of the Quality Proposal.

**Surety** - The corporate body properly licensed in the State which has issued the Performance and/or Labor and Material Bond.

**Suspension and Debarment** - The disqualification of a Proposer or Design-Builder from proposing on the Work for a period of time determined in accordance with United States Department of Transportation (US DOT) regulations.

**Temporary Relocation** - Any interim Relocation of a Utility (i.e., the installation, removal, and disposal of the interim facility) pending installation of the permanent facility in the same or a new location, and any removal and reinstallation of a Utility in the same place with or without an interim relocation.

**Termini** - A general term used to describe the limits of the Project, and including the beginning and end of the Project, the ROW limits, pit sites, haul roads, and temporary and permanent construction or maintenance easements.

**Test** - Methods adopted by the Department and the Design-Builder to ascertain the quality, character, and acceptability of Materials and processes utilized in performing the Contract.

**Time Related Dispute** - Any dispute arising from any event not within the Design-Builder's control, performance, action, force, or factor which materially and adversely affects the scheduled time of performance depicted in the Design-Builder's most recent Department Baseline Progress Schedule submitted to the Department.

**Total Proposal Price** - The total proposed amount that will be considered to be the correct sum of all proposed PCVs.

**Traveled Way** - The portion of the highway included in the roadway for the movement of vehicles, exclusive of the shoulders.

**Unbalanced Price Proposal** - A Price Proposal may be unbalanced either Materially or Mathematically. A Materially Unbalanced Price Proposal is a Price Proposal that generates a reasonable doubt that awarding the Contract to the Proposer submitting the price Proposal will result in the lowest ultimate cost to the Department. A Mathematically Unbalanced Price Proposal is a Price Proposal containing lump sum or Unit Price items that do not reasonably reflect the actual costs plus a reasonable proportionate share of the Proposer's anticipated profit, overhead costs, and other indirect costs.

**Unit Price** - The price established by the Contract for a specified unit quantity of Work that is measured for payment.

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**Utility** - A Person, corporation, municipality, or public authority engaged in the distribution of electricity, gases, petroleum products, water, steam, the collection of wastewater, the operation of traffic control systems, or the provision of telecommunication services.

**Utility Agreement** - The agreements with Utility Owners as described in the Contract.

**Utility Information** - The Utility-related data set forth in the Contract.

**Utility Owner** - The owner or operator of any Utility (including Persons and Governmental Persons).

**Utility Relocation Plans** - The Design Plans for Relocation of a Utility impacted by the Project, to be prepared by the Design-Builder or the Utility Owner, as designated in any applicable Utility Agreements.

**Value Engineering Change Proposal** - A proposal developed and documented by the Design-Builder which (A) produces a net savings to the Department without impairing essential functions or characteristics of the Project (including the meeting of requirements contained in all Governmental Approvals); and (B) would modify or require a change in any of the requirements of or constraints set forth in the Contract Documents in order to be implemented. A Value Engineering Change Proposal (VECP) cannot be based solely upon a change in quantities.

**Verification Sampling and Testing** - Sampling and testing performed to validate the quality of the product. The Department, or a firm retained by the Department, will perform Verification Sampling and Testing.

**Warranties** - The written commitments of the Design-Builder as set forth in the Contract regarding quality and performance over a specified period of time after Final Acceptance of the Project.

**Women-owned Business Enterprise** - Women-owned Business Enterprise means a business enterprise, including a sole proprietorship, partnership, or corporation that has the following attributes:

- A) It is at least 51% owned by one or more US citizens or permanent resident aliens who are women;
- B) It is an enterprise in which the ownership interest of such women is real, substantial, and continuing;
- C) It is an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
- D) It is an enterprise authorized to do business in the State and it is independently owned and operated.

**Work** - All of the administrative, design, engineering, real property acquisition support services, Utility support services, procurement, legal, professional, manufacturing, supply, installation, construction, supervision, management, testing, verification, labor, Material, Equipment, maintenance, documentation, and other duties and services to be furnished and provided by the Design-Builder as required by the Contract Documents, including all efforts necessary or appropriate to achieve Final Acceptance of the Project except for those efforts which the Contract Documents specify will be performed by the Department of other Persons. In certain cases, the term is also used to mean the products of the Work.

**Work Day** - A Calendar Day, exclusive of Sundays and State recognized legal Holidays, on which weather and other conditions not under the control of the Design-Builder will permit construction

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operations to proceed for the major part of the day on the principal item or items of Work which would normally be in progress at that time. Work Days exclude Sundays, State recognized public Holidays, and Days on which the Design-Builder is specifically prohibited from working, as identified in the Contract Documents. Days on which the Design-Builder is prohibited from closing a lane or lanes or impeding traffic are considered Work Days unless otherwise noted in the Contract Documents.

**Work Order** - *See* Notice to Proceed.

**Worker** - *See* Employee.

**Working Plans** - Those Plans prepared by the Design-Builder to supplement Design Plans to specify additional details and procedures for construction of the Project, including the following:

- A) Construction details;
- B) Erection plans;
- C) Fabrication plans;
- D) Field design change plans;
- E) Stress sheets;
- F) Shop plans;
- G) Lift plans;
- H) Bending diagrams for reinforcing steel;
- I) Falsework plans; and
- J) Similar data required for the successful completion of the Work.