



Department of Transportation

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New York State Department of Transportation
On behalf of
The New York Metropolitan Transportation Council
REQUEST FOR PROPOSALS (RFP)

Contract: C004309

NYMTC Website Redesign to Drupal Platform

[Modification #1](#)

Proposed Schedule

RFP Release Date	April 6, 2026
Pre-Proposal Webinar/Conference	April 17, 2026
Question Submittal Deadline	May 7, 2026
Question Response Deadline	May 18, 2026
Proposals Due	July 13, 2026 @ 10 AM (ET)
Shortlist Notification	September 15, 2026
Technical Demonstrations	October 6 & 7, 2026
Recommendation & Designation	October 26, 2026
Contract Finalization	November 23, 2026
Contract Award	March 15, 2027

A Pre-Proposal webinar will be held on April 17, 2026, at 11 a.m. via webinar.

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

Compliance with Procurement Lobbying Law

Under the requirements of the State Procurement Act, communications regarding the advertised project/procurement may only occur through the Designated Contacts. Communications exempted from this restriction are participation in a pre-proposal conference and any protests or complaints of improper conduct or misrepresentation. *See also*

<https://www.dot.ny.gov/portal/page/portal/main/business-center/consultants/general-info>

All questions concerning this solicitation must be directed only to the individuals specified below. Responses to all questions of a substantive nature received by the stated deadline, as well as copies of the questions, will be posted to the NYSDOT website. **All questions must be submitted using Attachment 14 - Proposer Question Template.**

The Designated Contact Persons are:

NYMTC Contract Liaisons: Seitu Allen & Joomee Lee

New York Metropolitan Transportation Council

25 Beaver Street, 2nd floor

New York, NY 10004

Emails: Seitu.Allen@dot.ny.gov / Joomee.Lee@dot.ny.gov

(212) 383-7200

The Contract Management Specialist: *Shalina Mallory*

NYSDOT Office of Contract Management

50 Wolf Road, 6th Floor

Albany, NY 12232-0203

Email: shalina.mallory@dot.ny.gov

(518) 457-2600

OR

The Office of Contract Management

Non-Architectural/Engineering Unit Supervisor

Assistant Directors, Deputy Director, and Director

Administrative Staff

(518) 457-2600

REQUEST FOR PROPOSALS (RFP) INTERESTED PARTY RESPONSE FORM

Contract: C004309

NYMTC Website Redesign to Drupal Platform

Please review this RFP, complete the following information, and email the completed form to the Designated Contact at the email address below, by the earliest date practical.

___ We **DO** intend to submit a Proposal

___ We **DO NOT** intend to submit a Proposal for the following reasons:

Proposer Name: _____

Address: _____

City, State, _____ Zip Code: _____

Telephone: _____

Email Address: _____

Typed Name and Title: _____

Signature: _____ Date: _____

Please email the completed form to Seitu.Allen@dot.ny.gov, Joomee.Lee@dot.ny.gov, and Shalina.Mallory@dot.ny.gov.

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Contract(s): C004309

Project Title: NYMTC Website Redesign to Drupal Platform

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1. Introduction

1.1. Purpose

The New York State Department of Transportation (“NYSDOT” or the “Department”), on behalf of the New York Metropolitan Transportation Council (NYMTC), is seeking proposals from responsive and responsible consulting firms to build and support a redesigned website for NYMTC.

1.2. Background

The current NYMTC website (NYMTC.org) was launched over 10 years ago. The website uses Evoq Content, developed by DNN Corp, as its Content Management System. NYMTC.org is hosted on a current Windows platform ISA 10 server, version 9, and includes approximately:

- 4181 HTM Pages
- 1796 PDF, XLS and other Documents
- 467 xml
- 45 asp
- 700 images

In addition, NYMTC has several web tools, applications, and wizards integrated into its current website. The functionality of these tools should be ported to the new website using existing Drupal-contributed modules, wherever possible. These include, but are not limited to:

- DNN Widgets used for calendar functions and a variety of DNN extensions
- Accessibe: <https://accessibe.com/>
- Forms to intake public comments including uploading documents submitted by the public (PDF, word, and image files).

This project aims to provide NYMTC’s stakeholders with a website that facilitates their ability to find, consume, and act on transportation-related information provided by NYMTC. The website should communicate essential messages relevant to visitors of NYMTC.NY.GOV, regardless of how they access the website.

NYMTC's Principles:

- 1) Accessibility - WCAG 2.2 AA
 - a) NYMTC expects the site not only to pass automated tests but to provide an engaging user experience regardless of accessibility needs
- 2) Mobile Friendly
 - a) All templates, content, and tools will prioritize mobile users' experience
- 3) User-centric
 - a) Multiple personas will be accounted for, ensuring that each user's experience is seamless and intuitive
- 4) Flexible and Adaptable
 - a) The new websites will allow administrators and content authors to easily surface relevant content to user's goals
- 5) SEO and Data-driven
 - a) Most traffic comes from internet searches and we require a platform that allows us to react quickly to changing needs and proactively promote content as necessary
- 6) NYS Branding and Drupal Best Practices
 - a) NYS agency websites must comply with NYS branding guidelines, best exemplified by www.ny.gov, as well as follow Drupal.org best practices

1.3. Contract Objectives

To award one contract to a consultant, or team of consultants, for three (3) years with two (2) optional 12-month extensions for support and maintenance.

Launch of the new website for NYMTC.ny.gov ~~and subsites~~ must be completed within nine (9) months of contract approval by the New York State Office of the State Comptroller.

Support and maintenance will be required for the:

- (1) Remainder of the contract term following the launch of the new website; and
- (2) Duration of each 12-month extension option that is approved.

1.4. Minimum RFP Responsiveness

Any Proposer that does not provide **ALL** the following by the **Proposal Submission Deadline** will be determined to be non-responsive and will be removed from further consideration (prior to the technical evaluation of Proposals).

Part I – Technical Proposal – Submit electronically in Adobe PDF Format.

☐	Signed Cover Letter on Official Company Letterhead
☐	Table of Contents identifying each major section and page numbers
☐	Narrative Description
☐	Experience
☐	Approach, Scope of Services and Schedule
☐	Organization and Staffing
☐	Attachment 11: Key Personnel References
☐	Attachment 16: Staffing Table/Level of Effort
☐	If applicable - CAIQ or CAIQ-Lite, FISMA Authorization to Operate Certificate, FedRamp Authorization Certificate, ISO 27001 Certificate, SOC2 Type 2 Report
☐	Attachment 18: ITS Project, Technical, Security, QA/QC Requirements
☐	Attachment 19: OnGoing Support and Maintenance

Part II – Cost and Administrative Proposal – Submit Electronically in Adobe PDF Format, except where noted.

☐	Signed Cover Letter on Official Company Letterhead
☐	Attachment: 15 - Cost Proposal Workbook (Excel)
☐	Vendor Responsibility Questionnaire – online certification or a scan of the hard copy questionnaire
☐	Attachment 2: Consultant Information
☐	Attachment 3: Procurement Lobbying Act Certification Form
☐	Attachment 4: Consultant Certification Form

1.5. RFP Modifications

If necessary, the New York State Department of Transportation (NYSDOT) will issue modifications to modify conditions or requirements of this RFP. Proposers are advised to visit the NYSDOT website: <https://dot.ny.gov/doing-business/opportunities/consult-opportunities> regularly to check for Modifications. The final Modifications will be posted on the NYSDOT's website not later than seven (7) calendar days prior to the Proposal Due Date. If additional Modification is required within the seven (7) calendar days, the Proposal Due Date shall be revised such that there will be seven (7) calendar days from the final Modification to the Proposal Due Date.

2. Scope of Services

2.1. Tasks

List the major components of work to be performed and provide a brief summary of each task to be performed. Detailed descriptions of tasks are located in **Attachment 13: Detailed Scope of Services**.

Task 1: Analysis and Research
Task 2: Information Architecture, Design, and Branding
Task 3: Development
Task 4: Migration
Task 5: Testing and Quality Assurance
Task 6: Knowledge Transfer and Training
Task 7: Deployment and Launch
Task 8: Delivery of Product and Documentation
Task 9: Support and Maintenance
Task 10: Additional Support and Enhancements

2.2. Organization and Staffing

The qualifications and prior experience of the Proposer are of great importance to NYSDOT. Key personnel job duties and qualifications are located in **Attachment 12: Contract Job Titles Descriptions and Qualifications**.

2.3. Civil Rights Requirements

The level of certified Disadvantaged Business Enterprises (DBE), Minority Business Enterprises (MBE), Women-Owned Business Enterprises (WBE), and Service-Disabled Veteran-Owned Businesses (SDVOB) will be relevant for selecting Proposals to achieve the goals of the Department.

Meaningful participation is defined as providing commercially useful functions or services that:

1. Result in a product or services distinguishable from the Prime Consultant's product or service or be a part of the services provided by the Prime Consultant.
2. Be for scope of service elements which can be and are completely performed, supervised, and managed by the DBE/MBE/WBE/SDVOB subconsultant, or
3. Performed significant tasks which can be considered commercially marketable.

To count towards the participation goal(s), Prime Firms must ensure that all of their proposed DBE/MBE/WBE/SDVOB subconsultants are currently certified through the New York State Unified Certification Program (DBE Directory) (<https://nysucp.newnycontracts.com>), the New York State Contract System (M/WBE Directory) (<https://www.ny.newnycontracts.com>), and the Director of New York State Certified Service-Disabled Veteran-Owned Businesses (<https://online.ogs.ny.gov/SDVOB/search>) for the type of work they are anticipated to perform. Certifications must be downloaded and copies provided with the submission.

Goals

Disadvantaged Business Enterprise (DBE) Participation Goal: 0%

Minority Business Enterprise (MBE) Participation Goal: _N/A_%

Women-Owned Business Enterprise (WBE) Participation Goal: N/A%

Service-Disabled Veteran-Owned Business (SDVOB) Participation Goal: _N/A_%

The SDVOB participation goal is separate from and in addition to any M/WBE goals. Firms that are dual certified may only be used to meet one of the Participation Goal(s) above.

Proposers must verify the attainment of the participation goal by completing either Attachment 8: Utilization Plan – DBE Participation or Attachment 9: MBE/WBE/SDVOB Utilization Plan – MBE/WBE/SDVOB Participation, as applicable.

If the Proposal does not meet the required Participation Goal(s), the Proposer must provide documentation of their Good Faith Efforts. Reference the Construction Contract's DBE/MBE/WBE/SDVOB Contractor's Solicitation and Good Faith Efforts Guide and the Good Faith Efforts Document for details on preparing Good Faith Effort justification. Though these documents are for Construction Contracts, the general information provided is applicable for all contracts. Construction documents can be found at: <https://www.dot.ny.gov/main/business-center/contractors/construction-division/forms-manuals-computer-applications-general-information/civil-rights>

2.4. Deliverables

All task specific deliverables are defined in **Attachment 13: Detailed Scope of Services**. All records/reports must be in Microsoft Word, Excel, Adobe PDF, or another format acceptable to NYSDOT. Documents must be available when requested by NYSDOT or automatically shared with NYSDOT in electronic format via emailed or managed file transfer (for larger sized documents). Should NYSDOT want to review records pertaining to this contract at the Consultant's office, NYSDOT shall be given access to those files upon reasonable notice.

The Consultant shall maintain all records at a location accessible by NYSDOT staff and in an electronic format acceptable to NYSDOT. Per the contract, all records produced under the contract are property of NYSDOT. Should the work between NYSDOT and the Consultant be terminated, all records shall be turned over to NYSDOT or its designated recipient.

3. Proposal Format and Contents

Electronic Submission: Proposals shall be electronically submitted to the Office of Contract Management (OCM) via the NYS mySend.ny.gov managed file transfer program. Proposers shall send an email to shalina.mallory@dot.ny.gov requesting the NYS MySend invitation ~~expressing their intent to submit their Proposal electronically~~ within 14 days of the proposal submission due date. OCM will then send the Proposal an invitation through mySend so the Proposer can upload their RFP submission files to the mySend application and transmit to OCM. Acknowledgement of Proposal receipt via email shall be sent to the Proposer to confirm successful receipt of electronically submitted Proposals. Proposers are advised to provide ample time to address any technology errors prior to the Proposal submission deadline.

Part I shall consist of the Technical Proposal. Part II shall consist of 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 Proposal can be evaluated strictly based on merit. **Cost information must not be included in the Part I: Technical Proposal.** The Proposal should follow the naming convention and format below.

Each Proposal must be submitted as three (3) files.

Electronic submission file nomenclature:

- Part I: Technical Proposal PDF Document
 - C004309_FirmName_PartI.pdf
- Part II: Cost and Administrative Proposal PDF Document
 - C004309_FirmName_PartII.pdf
- Attachment 15: Cost Proposal Workbook Excel Format
 - C004309_FirmName_Attachment15.xlsx

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, it should be identified on those pages of the 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 Letters to Part I and Part II of the Proposal.

NOTE: Cost information is **NOT** to be included in Part I: Technical Proposal. Technical information is **NOT** to be included in Part II: Cost and Administrative Proposal.

3.1. Technical Proposal

Part I shall include the following sections:

1. Cover Letter indicating:
Name, address and phone number of the Proposer, and the name, title address, email address and telephone number of the person(s) with authority who may be contacted during the procurement process. Provide a brief description of the approach, work effort, and resulting project. Confidential and proprietary information should also be identified in the cover letter. Not to exceed two (2) pages.
2. Table of Contents
3. Narrative Description
Provide a brief description of the important issues involved in the implementation of this effort. Include enough substantive details to demonstrate an understanding of the project objectives and familiarity with applicable laws, rules, etc. Not to exceed two (2) pages.
4. Experience
The qualifications and prior experience of the Proposers are of great importance to NYMTC/NYS DOT. Direct and prior experience in website design, support and maintenance in Drupal Version 10 (or the latest version) is highly desirable.

The Proposer must demonstrate that the proposed team organization is of sufficient size and has the qualifications and experience to perform the requested services. The Proposer should provide a detailed explanation of their experience and how it directly relates to this RFP.

The Proposer will be evaluated on:

- 1) The level of experience in website redesign projects of similar scope.
- 2) The appropriateness and quality of verified references.

The Proposer must provide three (3) verifiable client website project references (accessible by NYSDOT) for projects where the Proposer:

- 1) Researched the client's needs.
- 2) Audited, inventoried and migrated appropriate content of the existing website to the new website.
- 3) Designed, planned and managed all work.
- 4) Launched with a public launch date that occurred within the last three (3) years.
- 5) Successfully built and launched websites for other public organizations such as government, university, or other clients having a website with a similar complexity as the services required in this RFP.
- 6) A minimum of two (2) of the references must be for website design using Drupal 8 or higher.

NOTE: These websites must not have had work completed by another vendor after the Proposer's initial website launch. References must be readily available to be contacted by NYSDOT and able to respond to reference questions. NYSDOT strongly encourages Proposers to notify each reference that their contact information has been provided to

NYSDOT and they may be contacted to verify the Proposer's work experience. Failure of any named reference to respond to reference inquiries may result in the Proposal being deemed non-responsive and removed from further consideration.

Provide Attachment 11: Key Personnel References for all proposed Key Personnel. Include names, addresses, phone numbers, and email addresses of the contact with the listed clients who can provide variable references. NYSDOT reserves the right to request information from any source so named.

The Key Personnel (as identified in Attachment 12: Contract Job Titles Descriptions & Qualifications proposed by the Proposer are an important factor in the evaluation of the Proposal. Thus, NYSDOT expects that the personnel proposed will be available at the start of the contract term.

In addition, if at any time during the term of the contract a member of the Consultant's Key Personnel needs to be replaced, the Consultant shall have 30 calendar days to submit a qualified candidate (at the same or greater level of experience and expertise) to NYSDOT for approval. The determination that a candidate is "qualified" is the sole discretion of NYSDOT.

5. Approach, Scope of Services, and Schedule

Describe the approach for performing the work and accomplishing project objectives. A detailed scope of services is provided in Attachment 13: Detailed Scope of Services. The approach should be based on the information included in this RFP.

6. Organization and Staffing

Provide an organization chart for the project showing the names of the Proposer's Key Personnel, including subconsultants, if applicable. Provide an organization and staffing plan that describes the specific need for subconsultants, if applicable; the plan for phasing project personnel into the effort; interaction with NYSDOT; and the measures to retain Key Personnel/Supporting Staff, maintaining full staffing, screening and hiring new staff and minimizing staff turnover.

Include an estimate of the total level of effort hours contributed to each of the contract staff titles to each task and an estimate of the total level of effort hours for each task using **Attachment 16: Staffing Table/Level of Effort**.

7. For Cloud-Based or Hybrid Environment Solutions

To assist with the review of a Proposer's compliance with the NYS ITS Technical and Security Requirements please provide the following certifications, if available.

- CAIQ or CAIQ-lite ([What is CAIQ? | CSA \(cloudsecurityalliance.org\)](#)); the optional comments are beneficial to the review of compliance
- FISMA Authorization to Operate Certificate
- FedRamp Authorization Certificate
- ISO 27001 Certificate
- SOC2 Type 2 Report

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- Include a statement detailing any [authorization](#)/certification that the Proposer does not have.

3.2. Cost and Administrative Proposal

Part II shall consist of the following sections:

1. Cover Letter

Name, address and phone number of the Proposer, and the name, title address, email address and telephone number of the person(s) with authority who may be contacted during the procurement process. Provide a brief description of the approach, work effort, and resulting project. Confidential and proprietary information should also be identified in the cover letter. Not to exceed two (2) pages.

2. Cost Proposal Section

NYSDOT requires that all cost information be presented using Attachment 15: Cost Proposal. The accuracy of information entered into the Cost Proposal Workbook is the sole responsibility of the Proposer. When completing the Cost Proposal Workbook, Proposers shall follow these instructions:

- a. Proposers shall only make entries in the colored cells. Changes should not be made to the Cost Proposal Workbook Format or Formulas. All worksheets included in the Cost Proposal Workbook must be completed in order for the Proposal to be considered complete and responsive to the RFP requirements.
- b. Proposers shall not attach any additional or qualifying information unless specifically instructed to do so.
- c. If the Cost Proposal Workbook requests Fully Loaded Hourly Rates the Proposer must enter a Fully Loaded Hourly Rate for **ALL** Contract Job Titles included and/or additional titles proposed.
 - The Fully Loaded Hourly Rate shall be calculated as:
 - $A = \text{Direct Labor}$
 - $B = \text{Overhead Costs} = \text{Overhead Rate} * \text{Direct Labor}$
 - $C = \text{Fixed Fee (Profit)} = \text{Fixed Fee \%} * (A+B)$
 - $\text{Fully Loaded Hourly Rate} = A + B + C$
- d. All costs must include the following, unless specifically instructed otherwise:
 - All direct and indirect costs, all overhead, fees and profit
 - Labor, parts, shipping, material and equipment cost
 - Software licensing
 - Maintenance services
 - Repairs and replacements of major or minor parts as necessary
 - Administrative, reporting or other clerical activities
 - Travel costs, parking fees, and any other ancillary fees including permits, licenses, insurance, etc.
 - Services not explicitly stated in this solicitation, but necessarily attendant thereto as applicable to the associated item for which the rate/fee is being quoted.
- e. Direct Non-Salary Costs
- f. If requested in the Cost Proposal Workbook, a schedule shall list the items of direct non-salary costs (out-of-pocket expenses) to be incurred in the performance of the project for the Prime Consultant and any proposed Subconsultants. Travel, meals, and lodging reimbursements shall be limited to the prevailing maximum rates established by the State Comptroller. The latest state and nationwide rates are available at the following website: <http://www.gsa.gov>

3. Administrative Section

a. 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 Proposers of contracts valued at \$100,000 or more, and subconsultants with services valued at \$100,000 or more shall be required to submit a Vendor Responsibility Questionnaire through the Office of the State Comptroller at:

<http://osc.state.ny.us/vendrep/index.htm>

b. Acceptance of Contract Terms and Conditions

Proposers shall complete and submit Attachment 2: Consultant Information and Attachment 4: Consultant Certification, to indicate their acceptance of all terms and conditions contained in Attachment 1: Draft Contract. Attachment 4 requires the signatures of an official authorized to bind the Proposer to all provisions, a statement certifying that the Proposal shall remain valid for 365 days, a statement that the Proposer accepts the RFP's Detailed Scope of Services "as-is", and a statement, that if awarded the contract, the Proposer will comply with all requirements of the RFP, including all attachments. Altering this form without prior written approval of NYSDOT, is prohibited and may lead to the Proposal being deemed non-responsive and subsequently dismissed.

No exceptions to any of the draft contract terms and conditions will be entertained by NYSDOT. Conditional Proposals will be deemed non-responsive.

c. [Procurement Lobbying Law Act Certification](#)

[Complete and submit Attachment 3 Procurement Lobbying Law Act Certification.](#)

~~e~~.d. Civil Rights Participation

Complete and submit Attachment 8: Utilization Plan – DBE Participation or Attachment 9: Utilization Plan – MBE/WBE/SDVOB Participation. Submit DBE/MBE/WBE/SDVOB Certifications, as applicable. If applicable Good Faith Effort justification and AAP-10 ~~DBW~~[DBE](#)/MBE/WBE/SDVOB Solicitation Log if advertised goal(s) are not met.

4. Criteria for Evaluation of Proposals

a. General

Proposals shall be pre-screened to determine if they meet the minimum RFP responsiveness requirements referenced in Section 1.4. Those which do not shall be deemed non-responsive and shall be removed from further consideration. As part of the pre-screening process, the proposed Civil Rights Participation percentages shall be reviewed. To count towards NYSDOT's participation goal(s), each firm must be currently listed in the NYSUCP (DBE), NYS MWBE Directory of Certified Firms (M/WBE) or NYS OGS Directory of Certified SDVOBs. If the proposed participation is less than the established goal(s) in Section 2.3 the Proposer's evidence of Good Faith Efforts will be reviewed. During the review, which will include verification of a Proposer's Good Faith Effort evidence, if it is determined by NYSDOT that the Proposer did not provide an acceptable Good Faith Effort, then the Proposal will be deemed non-responsive and will be removed from further consideration.

Proposals shall then be evaluated by NYMTC/NYS DOT using a Best Value Method evaluation process based on the technical and cost criteria described below. Technical Proposals will be scored based on the information provided under Section 3.1 and in accordance with the established criteria listed in Section 4.2. The Cost portion of Section 3.2 will be point scored in accordance with the pre-established criteria listed in Section 54.3.

Technical Proposal evaluations will be accomplished by a representative committee comprised, as appropriate, of technical, program and management personnel. Technical Evaluation Committee (TEC) members will score each Proposal individually and then meet as a group to discuss the Proposals. The TEC will be allowed to revise their individual scores on the basis of the group discussion.

Proposers responding to this RFP may be requested to clarify issues or to provide additional insights into their Proposal through written clarifications and/or technical interviews/demonstrations. If written clarifications are required to complete the technical evaluation of Proposals, the TEC will be allowed to revise their technical scores based on this clarifying information. Furthermore, NYSDOT reserves the right to ask clarifying questions regarding each Cost Proposal and DBE/MBW/WBE/SDVOB participation.

NYSDOT reserves the right to request Best and Final Offers (BAFOs) from Proposers that are determined to be mathematically eligible for contact award.

b. Written Technical Proposal Evaluation

The Written Technical Proposal will be scored and will represent 55% of the total score for a Proposal. The major evaluation criteria are listed below:

1. Experience of the Firm and Key Personnel (Up to 35 points)
 - A. Overall quality, extent and relevance of experience of the firm and key personnel during the past five (5) years relevant to the scope of services for this project (Up to 20 points)
 - B. Quality, extent and relevance of the education and training of key personnel (Up to 15 points)
2. Approach to Scope of Services and Schedule (Up to 10 points)

- A. Quality of the proposed approach to the scope of services and degree to which it reflect an understanding of the project scope and deliverables (Up to 5 points)
- B. Quality of a Proposer's resources relative to the needs of the project (Up to 3 points)
- C. Completeness and reasonableness of the project schedule (Up to 2 points)
- 3. Organization and Staffing (Up to 10 points)
 - A. Quality of the project organization chart showing the names of all key personnel, subconsultants, and lines of communication (Up to 4 points)
 - B. Quality of the organization and staffing plan describing the specific need for subconsultants, phasing personnel into the project, interaction with NYSDOT, measures to retain key personnel/supporting staff, maintaining full staffing, screening and hiring new staff, and minimizing staff turnover (Up to 3 points)
 - C. Reasonableness of staff/task allocations for each task and total effort (Up to 3 points)

c. Cost

The Cost portion of Part II: Cost and Administrative Proposal will be point scored and will represent 25% of the total score for a Proposal. The calculation of a cost score will be based on the following method:

- 1. The Proposal with the overall [lowest](#) total proposed cost will receive the full amount of points.
- 2. Proposals with higher overall total proposed costs will receive proportionately lower Cost Proposal scores.
- 3. This point total will be calculated by dividing the lowest proposed Cost Proposal total cost by the total proposed cost of each Proposal, multiplied by the maximum weight for the Cost Proposal 25%.
- 4. Cost Proposal scoring results shall be used to determine which Proposal are to be shortlisted and/or mathematically eligible for contract award.

d. Proposal Shortlisting

The shortlisting rule for this RFP shall be: Any Proposer within 20 points of the top initial Best Value ranked Proposal. Cost evaluation results shall be added to the final written technical evaluation scores to arrive at the Initial Best Value Score for each Proposal.

All Proposers will be notified of the shortlisting results. Shortlisted Proposers will be sent information regarding the Technical Demonstrations/Interviews.

e. Technical Demonstrations/Interviews

Technical Demonstrations/Interviews will be held via webinar at a date and time to be determined by NYMTC/NYS DOT.

The Technical [Demonstrations/Interviews](#) will be scored and will represent 20% of the total score for a Proposal. The major evaluation criteria are listed below:

- 1. Ability of the presenting consultant team to address and answer the committee's clarifying questions (Up to 10 points)
- 2. Ability to address the committee's follow-up questions and concerns (Up to 10 points)

f. Written Technical Clarifications/Re-Score

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

g. Best and Final Offer (BAFO)

NYSDOT reserves the right to request a Cost Only Best and Final Offer (BAFO) from responsive/shortlisted proposers. Responsive/Shortlisted Proposers have the option to submit or decline to submit a Cost Only BAFO. All responses will be reviewed for responsiveness and Cost Proposal scores will be adjusted accordingly.

h. Proposal Withdrawal

Should any firm withdraw their Proposal, NYSDOT will remove the Proposals' technical and cost information from the Best Value evaluation documents and shall recalculate the remaining Proposers' technical and cost scores (without the withdrawn Proposers' information).

i. Final Best Value Determination

After evaluation of all information submitted by competing Proposers (i.e., initial written Technical Proposals, written clarifications, and possible BAFOs), the NYSDOT will add the weighted written Technical Proposal scores to the perfected Cost Proposal scores to generate the tentative final best value score by Proposer. Proposers shall be ranked in Final Best Value score order (highest to lowest).

j. Consultant Selection and Recommendation and Tentative Contract Award

A Consultant selection and designation memo shall be prepared and forwarded to the Applicable NYSDOT's Executive Manager(s) with an accompanying evaluation process results report. The memo shall recommend selection of the top-ranked Best Value Consultant(s) for tentative Contract award. The Executive Manager(s) will be asked to concur with the final conclusion of the Proposal evaluation process and designate the Best Value Consultant(s) based on the results.

Should NYSDOT and the Best Value Consultant(s) fail to produce and agreed upon contract(s), then the Executive Manager(s) will designate tentative contract award to the next highest Best Value Consultant. This process may repeat itself until acceptable contract(s) are consummated.

At the conclusion of the evaluation process, an announcement of NYSDOT's designation(s) will be posted on the Department website. All Proposers will be notified in writing regarding the results from the solicitation and will be offered an opportunity to hold a debriefing. The request for a debriefing shall be made to the Department's Designated Representative within 15 calendar days from the date of the designation/non-designation notification. Further, it is expressly understood that this Request for Proposals (RFP) does not commit the Department to award a contract, pay any costs incurred in the preparation of a Proposal to his request, or to procure or contract any services or supplies. Further, the Department shall have no obligation

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or liability whatsoever to the Consultant selected as a result of this solicitation unless and until a contract satisfactory to the Department is approved and executed by the Consultant and all necessary State officials.

5. Administrative Provisions

a. States Rights

All Proposals, upon submission to the Department shall become its property for use as deemed appropriate. By submitting a Proposals, the Proposer covenants not to make any claim for or have any right to damages because of any misinterpretation or misunderstanding of the specification, or because of any misinformation or lack of information. The Department attests to the following prerogatives with regard to Proposals submitted:

1. To accept or reject any or all Proposals;
2. To correct any arithmetic errors in any or all Proposals;
3. To change the Proposal's due date upon appropriate notification to interested firms;
4. To eliminate any mandatory RFP requirement(s) or specification(s) unmet by all Proposers in the evaluation of received Proposals;
5. To adopt any or all of a successful Proposer's Proposal;
6. To negotiate milestone payment schedule and total cost, and contract terms and conditions with the selected Proposer prior to contract award only if it is in the best interest of the State to do so;
7. To disqualify a Proposer from receiving the award if such Proposer, or anyone in the Proposer's employ, has previously failed to perform satisfactorily in connection with public bidding or contracts;
8. To revise/amend any provision of this RFP by written notification to Proposer's prior to Proposal submission;
9. To make inquiries, by means it may choose, into the Proposer's background or statements made in the Proposal to determine the truth and accuracy of all statements made therein;
10. Conduct contract negotiations with the next responsible Proposer, should the Department be unsuccessful in negotiation with the selected Proposer; and
11. Any contract entered into pursuant to an award of this solicitation shall contain a provision which grants the option to extend the terms and conditions of such contract to any other New York State agency. However, any response to this and shall not factor in the possibility that this contract may, in the future, be applicable to other state agencies. Please be advised that any award made pursuant to this solicitation shall be based on the specific requirements of this solicitation only.

b. Public Officers Law

The New York State Public Officer's Law (POL) §73 sets forth requirements for "business activities by current and former state employees, officers, and party officers". For purposes of this document, the term "covered person" shall have the definition of any part set forth in Public Officer's Law §73(8.)(a)(i) who is proposed to perform on a NYSDOT contract.

Contractors, consultants, vendors, subconsultants and subcontractors may propose or utilize a covered person, subject to the New York State Public Officer's Law §73. For example, a former NYSDOT or Public Authority employee may be prohibited from conducting work on a NYSDOT contract for a period of 2 years after separation, while others may be subject to a "lifetime bar". Ultimately it is the employee's responsibility to comply with the provisions of the Public Officer's Law related to post-state employment restrictions.

Consultant's Responsibility

If the Consultant proposes a covered person as part of their staff, then prior to designation the consultant must provide the Office of Contract Management a copy of the NYS Commission on Ethics and Lobbying in Government informal written opinion concerning the application of the two-year and lifetime bar(s) to the individual's proposed activity.

After designation, the Consultant must notify the Department's Consultant's Job Manager or Project Manager of the addition of any covered person to perform services under the Contract.

c. Protest Procedures

The New York State Department of Transportation (NYSDOT) has established a protest procedure to be utilized when an interested party challenges a Non-Architecture/Engineering consultant designation by NYSDOT. The complete procedure can be accessed via <https://www.dot.ny.gov/main/business-center/consultants/general-info>.

d. Information for the Selected Consultant

1. Registration with NYSDOT

Consultant firms entering into contracts with NYSDOT as prime consultants, joint venture partners, or subconsultants, are required to electronically register their firm using the Consultant Selection System web application (CSSWeb) by creating and registering an account to: 1) create and assign Consultant Identification Numbers (CINs) for each office registered by the firm; 2) provide general firm information including, but not limited to, legal name, Federal Identification Number (FEIN), ownership type, DBE/MBE/WBE/SDVOB status, firm principals, and office(s) address information. All consultant firms designated for a contract award must be registered electronically with NYSDOT prior to that Contract being forwarded to the Office of the State Comptroller for approval. Registered firms are responsible for verifying and updating their registration information during the term of the Contract.

Consultant Firm Registration instructions are available at:

<https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions>

2. Registration with Statewide Financial System (SFS)

Should this solicitation lead to a designation, the Prime Consultant(s) are required to electronically register with the Statewide Financial System(s) – if not already registered. The Department 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 results of this process is an established SFS vendor number assigned to the Prime Consultant. If a firm has already registered in SFS in conjunction with another procurement, it will not likely need to be registered for this opportunity. However, a SFS vendor number is firm name specific. Since many firms have different variations of their business identifies, firms will be required to register in the name of the business entity that the Department is doing business with.

<https://www.ocs.stsate.ny.us/state-vendors>

3. Consultant Employment Disclosure Requirements

During contractual performance, the Consultant must comply with Executive Order 162, **ENSURING PAY EQUITY BY STATE CONTRACTORS**, dated January 9, 2017. Please refer to <https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions> under the heading **Executing Order 162, Ensuring Pay Equity by State Contractors, Reporting Requirement** for further information.

4. Insurance Requirements

Please carefully read the terms and conditions of the draft contract appended as Attachment 1 of this RFP. Your attention is drawn to the insurance requirements for this project that are contained in Article 13 of the draft contract. These insurances which are mandatory for this solicitation are included in Attachment 13: Detailed Scope of services, are mandatory for the firm(s) selected as a result of this solicitation and will not be waived.

5. Contractor Tax Certification

Per section 5-a of the New York State Tax Law, all vendors selected for contracts in excess of \$100,000 for the sale of goods or services must complete and submit forms ST-220-CA and ST-220-TD (Contractor Certifications). The forms and instructions are available at: http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf (Form ST-220-CA) and http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf (Form ST-220-TD).

6. Executive Order No. 177 Certification (Attachment 5)

In accordance with Executive Order No. 177, the Consultant will be required to certify that it does not have institutional practices that fail to address Human Rights Law. The completed and signed certification must be returned with the Consultant's executed contract.

7. Executive Order 16 Certification (Attachment 6)

In accordance with Executive Order No. 16, the Consultant will be required to certify that it does not violate EO-16 by Conducting Business in Russia. The completed and signed certification must be returned with the Consultant's executed contract.

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Attachment 1: Draft Contract

NEW YORK STATE DEPARTMENT OF TRANSPORTATION

COMPTROLLER'S CONTRACT: C004309

PROJECT: NYMTC Website Redesign to Drupal Platform

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 B, Appendix C, Appendix D, Schedule A ~~(including Exhibits)~~, Schedule B ~~(including Exhibits)~~, the DEPARTMENT'S Request for Proposals (RFP, dated [REDACTED], including any modifications) incorporated by reference, and the CONSULTANT'S Proposal (dated [REDACTED], 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. The applicable provisions required by state and federal law to be inserted in the CONTRACT as set forth in Appendix A;
2. APPENDIX B, APPENDIX C, and APPENDIX D;
3. This CONTRACT, including Signature Page, and 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 **36**-month base term, which shall commence on [REDACTED] and end on [REDACTED]. The CONTRACT may be extended for up to **two (2)** one-year periods 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 \$[REDACTED] 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 STATE in order to receive payment. Billing invoices submitted to the STATE must contain all information and supporting documentation required by the Contract, the STATE and the Office of the State Comptroller (OSC). Payment will only be rendered electronically, unless payment by paper check is expressly authorized by the New York State Department of Transportation Commissioner, in the COMMISSIONER'S sole discretion, due to extenuating circumstances. Such electronic payment will be made in accordance with ordinary State procedures and practices from the Statewide Financial System (SFS). The CONSULTANT shall comply

with OSC's procedures to authorize electronic payments. A CONSULTANT, who has not previously performed work for New York State, shall complete a substitute Form W9 for processing by the Department in order to obtain an SFS Vendor ID. After obtaining an SFS Vendor ID, the CONSULTANT will receive an email from SFS with information that includes a link to the payment portal to track and manage payments. For questions regarding electronic payments, the CONSULTANT should contact SFS at (518) 457-7717 or (855) 233-8363. The CONSULTANT will not receive payment on under this contract if it does not comply with the State Comptroller's electronic payment procedures, except where the COMMISSIONER has expressly authorized payment by paper check as set forth above.

ARTICLE 7 – PROVISION FOR PAYMENT

The State shall pay to the CONSULTANT and the CONSULTANT agrees to accept as full compensation for its services under this CONTRACT:

Item I – 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 II – If the CONTRACT is extended beyond [REDACTED] then all salary rates shown in SCHEDULE B, ~~Exhibit 4~~ 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 3%, 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.

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 be 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 and 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 or subconsultant of the date the voucher was submitted to the STATE and the amount included for the subcontractor or 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 of 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 and expense, and shall maintain in force at all times during the term of this contract including any extensions or renewals until satisfactory completion of all work under the contract, the policies of insurance covering all operations under the contract whether performed by it or its Subconsultants as herein set forth, written by companies authorized by the New York State Department of Financial Services 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, release the Consultant from the requirement to provide certain specified types of insurance if the Department determines that the Work related to that specific type of insurance (i.e., Railroad Protective Liability, Marine Protection & Indemnity) has been satisfactorily completed, therefore obviating the utility of the required insurance. The Department may, at its sole discretion, permit the placement of policies with a non-authorized carrier or carriers upon request by the Consultant accompanied by the documentation required by 11 NYCRR §27.0 *et seq.* provided that nothing herein shall be construed to require the Department to accept insurance placed with a non-authorized carrier under any circumstances. The Consultant shall deliver to the Department evidence of such policies as the Department deems necessary to verify that the required insurance is in effect.

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

1. Coverage Types and Policy Limits. The types of coverage and policy limits required from the Consultant are specified in Paragraph B, *Insurance Requirements*, below. General liability insurance shall apply separately on a per-job or per-project basis. Unless otherwise indicated, the required limits of liability for any insurance may be secured through any satisfactory combination of primary and/or excess /umbrella policies.

2. Policy Forms. Except as may be otherwise specifically provided herein or agreed in writing by the Department, policies must be written on an **occurrence** basis. In the event that occurrence-based coverage is not commercially available, claims-made policy forms will be considered provided that, at minimum, it includes provisions that allow for (a) reporting circumstances or incidents that may give rise to future claims and (b) an extended reporting period of not less than three (3) years with respect to events that occurred but were not reported during the term of the policy. ***Insurance policies that remove or restrict blanket contractual liability located in the “insured contract” definition (as stated in Section V, Number 9, Item f in the ISO CGL policy) or that remove or modify the “insured contract” exception to the employer’s 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.

3. Certificates of Insurance/Notices. Consultant shall provide a Certificate or Certificates of Insurance, in a form satisfactory to the Department, before commencing any work under this contract. Certificates or transmittal correspondence shall reference the NYSDOT Contract Number. Consultant is strongly encouraged to transmit certificates and other materials concerning insurance coverage, referencing the NYSDOT Contract -Number and the name of the Consultant in the Subject Line, by email to:

Insur.consult.contr@dot.ny.gov

Certificates may be mailed to the:

**New York State Department of Transportation
Office of Contract Management
50 Wolf Road, Sixth Floor
Albany, NY 12232**

Unless otherwise agreed, policies shall be written so as to require that the policy will not be (i) canceled, (ii) materially changed or (iii) permitted to expire or lapse for any reason except upon ten (10) days' prior written notice to the Department by Certified Mail, Return Receipt Requested at the address stated above. In addition, if required by the Department, the Consultant shall deliver to the Department within ten (10) work days of such request a copy of any or all policies of insurance not previously provided, certified by the insurance carrier as true and complete. Certificates of Insurance shall:

- a. Be in a form satisfactory to the Department. The ACORD 25 Certificate must be accompanied by an ACORD 855 "New York Construction Addendum" completed to indicate information about the liability insurance.
- b. Be signed and dated by an authorized representative of the insurance carrier or producer.
- c. Disclose any deductible, self-insured retention, aggregate limit.
- d. Refer to this Contract by number on the face of the certificate.

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

- a. Direct the Consultant to suspend work and not re-enter the premises, allocating no additional payment or extension of time due on account thereof, or
- b. May withhold further payments, or
- c. Treat such failure as a breach or default of the contract.

4. Additional Insureds. All insurance policies required by this agreement, except workers' compensation, 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 any consultants working for or on the project, and their agents or employees"** with respect to any claim arising from the Consultant's Work under this contract or as a result of the Consultant's operations. The coverage for parties required to be "additional insureds" shall be effected by endorsement of the applicable policy using the following ISO forms, or such forms providing equivalent coverage.

ISO form CG 20 10 04 13, CG 20 33 10 01, CG 20 33 07 98 when used in combination with CG 20 37 07 04, CG 20 37 04 13, CG 20 38 04 13 and CA 20 48 10 13.

5. Primary Coverage. The liability and protective liability insurance policies shall provide primary and non-contributory coverage to the Department for any claim arising from the Consultant's Work under this contract, or as a result of the Consultant's activities.

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

7. Policy Renewal/Expiration. At least ten (10) calendar days prior to the expiration of any policy required by this contract, evidence of renewal or replacement policies of insurance with terms no less favorable to the Department than the expiring policies shall be delivered to the Department in the manner required for service of notice in Paragraph A.3. *Certificates of Insurance/Notices* above.

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

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

10. Subconsultant's Liability Insurance. In the event that any portion of the work described in this contract is performed by a subconsultant, the applicable insurance requirements of this contract shall be incorporated into the Consultant's subcontract or agreement. Subconsultant insurance requirements shall include Workers' Compensation, Disability, Commercial General Liability, and, if applicable, Commercial Auto and/or Professional Liability. Excess or umbrella insurance is not required for subconsultants.

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

1. Workers' Compensation. (*Applicable to all contracts*). For work to be performed in New York State, as required by State Finance Law §142 and Workers' Compensation Law Section 57, 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.

Evidence of Workers' Compensation and Employers Liability coverage shall be provided on one of the following forms specified by the Chairman of the New York State Workers' Compensation Board:

- (1) C-105.2 (September 2007 or most current version) – Certificate of Workers' Compensation Insurance;
- (2) U-26.3 – Certificate of Workers' Compensation Insurance from the State Insurance Fund;
- (3) GSI-105/SI-12 – Certificate of Workers' Compensation Self Insurance; or
- (4) CE-200 – Certificate of Attestation of Exemption (When Consultant meets the requirements).

All forms are valid for one year from the date the form is signed / stamped, or until policy expiration, whichever is earlier.

2. Disability. (*Applicable to all contracts*). For work to be performed in New York State, as required by Workers' Compensation Law Section 220 (8), the Consultant shall provide and maintain coverage during the life of the related contract for the benefit of such employees as are required to be covered by the New York State Disability Benefits Law. Any waiver of this requirement must be approved by the Agency and will only be granted in unique or unusual circumstances.

Evidence of Disability Benefits coverage must be provided on one of the following forms specified by the Chairman of the Workers' Compensation Board.

- (1) DB-120.1 (May 2006 or most current version) – Certificate of Insurance Coverage under the New York State Disability Benefits Law;
- (2) DB-155 – Certificate of Disability Self Insurance; or
- (3) CE-200 – Certificate of Attestation of Exemption.

All forms are valid for one year from the date the form is signed / stamped, or until policy expiration, whichever is earlier.

3. Commercial General Liability (CGL). *(Applicable to all contracts).* The Consultant shall maintain a Commercial General Liability policy or policies, on an occurrence form, insuring against liability arising from premises (including loss of use thereof), personal injury or death, advertising injury, liability insured under an insured contract (including the tort liability of another assumed in a business contract) occurring on or in any way related to the premises or occasioned by reason of the operations of Consultant. Such coverage shall be written on an ISO occurrence form (ISO Form CG 00 01 12 07 or a policy form providing equivalent coverage) in an amount no less than the minimum coverage set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts**. Unless otherwise provided, the policy or policies of insurance providing the liability coverage shall include:

- a. ***Coverage for contractual liability assumed by the Consultant insured under an insured contract (including the tort liability of another assumed in a business contract).***
- b. ***All insurance policies required by this contract, except workers' compensation, 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 any consultants working for or on the project, and their agents or employees" with respect to any claim arising from the Consultant's Work under this contract or as a result of the Consultant's operation using ISO forms, or such forms providing equivalent coverage: ISO form CG 20 10 04 13, CG 20 33 10 01, CG 20 33 07 98 when used in combination with CG 20 37 07 04, CG 20 37 04 13, CG 20 38 04 13, and CA 20 48 10 13.***
- c. ***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.***
- d. ***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.***

4. Commercial Automobile including liability and required coverage for New York. *(Applicable to all contracts).* 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 shall 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. If the contract involves the removal of hazardous waste or otherwise transporting hazardous materials, pollution liability coverage for covered autos shall be provided by form CA 99 48 03 06 or CA 00 12 03 06 and the Motor Carrier Act Endorsement (MCS90) shall be attached. Coverage shall be in an

amount no less than the minimum coverage set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts**.

5. Umbrella or Excess Liability. *(Applicable to all contracts).* When the limits of the CGL, Auto, and/or Employers' Liability policies procured are insufficient to meet the limits specified, the Consultant shall procure and maintain Commercial Umbrella and/or Excess Liability policies with limits in excess of the primary; provided, however, that the total amount of insurance coverage is at least equal to the requirements set forth, and shall be sufficient to provide, when combined with the Commercial General Liability, no less than the minimum coverage set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts**. The policy or policies shall provide insurance insuring against liability arising from premises (including loss of use thereof), operations, independent Contractors, products-completed operations, personal injury and advertising injury, and liability insured under an insured contract (including the tort liability of another assumed in a business contract) occurring on or in any way related to the premises or occasioned by reason of the operations of Consultant or arising from automobile liability as described above. Such coverage shall be written on an ISO occurrence form CU 00 01 12 07 or a policy form providing equivalent coverage.

6. Special Protective and Highway Liability. *(Applicable to all contracts where work occurs in a state highway).* The Consultant shall maintain, separate and apart from its umbrella policy, a policy issued to and covering the liability of the People of the State of New York; The State of New York; the Commissioner of Transportation; all employees of the Department of Transportation; any municipality in which the work is being performed; and any public benefit corporation, railroad, or public utility whose property or facilities are affected by the Work, against damages that the insureds may be held legally liable to pay for property damage, personal injuries, or death that is caused by any occurrence that takes place within any location where work is to be or is being performed by Consultant, including at the location of any of the Work. This should be ISO form CG 00 14 12 or a policy form providing equivalent coverage along with mandatory New York endorsements. Coverage shall be in an amount no less than the minimum coverage set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts**.

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

minimum coverage set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts**.

8. Railroad Protective Liability. *(Applicable to any work where the consultant is working within 50 feet of a Railroad or entering the railroad right-of-way, independent of a construction contract).* The Consultant shall maintain a railroad protective liability policy of insurance in the name of the affected railroad and with limits of coverage as specified in the Project Assumptions – Insurance Requirements, or if no limits of coverage are specified, in an amount no less than the minimum coverage set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts**. The aggregate limit shall apply separately to each annual period. Said policy shall be subject to the approval of the railroad and comply with 23 CFR 646 Subpart A.

9. Marine Protection & Indemnity. *(Applicable to any Work performed on a navigable waterway using barges or other watercraft or necessitating the use of a rescue boat / skiff).* Anytime the activity involves work on or over navigable water or the Work is connected to water related activities, Marine Protection & Indemnity and Hull and Machinery coverage is required. Hull and Machinery coverage shall be provided for the total value of the watercraft or equipment. The Consultant shall maintain at its own expense, or shall require to be maintained, Protective and Indemnity Liability insurance for all marine operations under the Agreement in an amount no less than the minimum coverage as set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts**. The policy shall be endorsed to add the Department as an Additional Insured. Any coverage required within this subsection may be satisfied by the CGL and Excess policies, or endorsement thereto, only when total coverage meets or exceeds the sum of the individual coverages had each been procured separately.

10. Pollution Liability. *(Applicable where the Consultant will employ mobile equipment or tanks; facilities for fueling vehicles or equipment on-site; or where the work involves the handling or removal of any contaminant, including but not limited to asbestos or lead paint or petroleum products including the abatement or removal of such materials, or some other identified environmental condition).* The Consultant shall maintain at its own expense, or shall require to be maintained, either through an endorsement to a commercial general liability policy or through a separate policy not to be combined with any other coverage, insurance protecting Consultant and the Department from the liability and financial loss relating to Consultant's contamination of soil and the accidental release of petroleum products, chemicals and/or toxic gases from broken pipelines, utilities and stationary and mobile fuel tanks that can result from Consultant's operations. Such coverage shall be written on policy form providing coverage for contamination both on and off the leased premises and shall provide coverage in an amount no less than the minimum coverage as set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts**.

11. Unmanned Aircraft Systems Liability. *(Applicable where the Consultant is required to or chooses to utilize unmanned aircraft systems or "drones" for any purpose related to contract work or within the contract limits).* Unmanned Aircraft Systems Liability will be required whenever the contracted work includes, or the Consultant utilizes, the operation of an Unmanned Aircraft System. The Consultant shall maintain at its own expense, or shall require

to be maintained, an Aviation Liability Insurance Policy covering the liability of the operator for bodily injury, property damage, and personal injury arising from all operation in an amount no less than the minimum coverage set forth in **C. Table of Minimum Insurance Requirements for Consultant Contracts**. A certificate of insurance demonstrating proof of coverage is required. The proof of coverage shall include Additional Insured Endorsements, 30-Day Notice of Cancellation Endorsements and Waiver of Subrogation Endorsements.

C. Table of Minimum Insurance Requirements for Consultant Contracts

TABLE OF MINIMUM INSURANCE REQUIREMENTS REQUIREMENTS FOR CONSULTANT CONTRACTS ¹				
INSURANCE TYPE	CONTRACT VALUE			
	\$0 - \$10,000,000	\$10,000,000.01 - \$20,000,000	\$20,000,000.01- \$100,000,000	Over \$100,000,000
Commercial General Liability (CGL)	\$1 million per occurrence; \$2 million aggregate ²	\$1 million per occurrence; \$2 million aggregate ²	\$1 million per occurrence; \$2 million aggregate ²	\$1 million per occurrence; \$2 million aggregate ²
Commercial Automobile	\$1 million per accident	\$1 million per accident	\$1 million per accident	\$1 million per accident
Umbrella or Excess Liability	At least \$6 million when combined with CGL ²	At least \$9 million when combined with CGL ²	At least \$13 million when combined with CGL ²	At least \$20 million when combined with CGL ²
Special Protective and Highway Liability	\$1 million per occurrence; \$2 million aggregate	\$1 million per occurrence; \$2 million aggregate	\$2 million per occurrence; \$4 million aggregate	\$2 million per occurrence; \$4 million aggregate
Professional Liability / Errors and Omissions	\$2 million per occurrence; \$2 million aggregate	\$2 million per occurrence; \$2 million aggregate	\$3 million per occurrence; \$3 million aggregate	\$4 million per occurrence; \$4 million aggregate
	Design-Bid-Build \$1 million per occurrence; \$1 million aggregate	Design-Bid-Build \$1 million per occurrence; \$1 million aggregate	Design-Bid-Build \$1 million per occurrence; \$1 million aggregate	Design-Bid-Build \$1 million per occurrence; \$1 million aggregate
Railroad Protective Liability	\$2 million per occurrence; \$6 million aggregate	\$2 million per occurrence; \$6 million aggregate	\$2 million per occurrence; \$6 million aggregate	\$2 million per occurrence; \$6 million aggregate

TABLE OF MINIMUM INSURANCE REQUIREMENTS <u>REQUIREMENTS</u> FOR CONSULTANT CONTRACTS ¹				
INSURANCE TYPE	CONTRACT VALUE			
	\$0 - \$10,000,000	\$10,000,000.01 - \$20,000,000	\$20,000,000.01- \$100,000,000	Over \$100,000,000
Marine Protection & Indemnity	\$1 million	\$1 million	\$1 million	\$1 million
Pollution Liability	\$1 million per occurrence; \$1 million aggregate	\$1 million per occurrence; \$1 million aggregate	\$1 million per occurrence; \$1 million aggregate	\$1 million per occurrence; \$1 million aggregate
Unmanned Aircraft Systems Liability	\$1 million per occurrence	\$1 million per occurrence	\$1 million per occurrence	\$1 million per occurrence

¹ Document Titled **Project Assumption – Insurance Requirements** in Attachment 13: Detailed Scope of Services modifies the mandatory insurance coverages. Any insurance invoked by an assignment shall provide coverage under this Agreement; separate policy limits are not required for each assignment.

² Insurance afforded to additional insureds shall not be limited by contractual minimum coverage requirements when insurance limits stated in the Certificate of Insurance or Declarations exceed minimum coverage.

D. Consultant's Risks. The Consultant shall be responsible for obtaining any insurance it deems necessary to cover its own risks, including without limitation: (a) business interruption, such as gross earnings, extra expense, or similar coverage, (b) personal property, and/or (c) automobile physical damage and/or theft. In no event shall the Department be liable for any damage to, or loss of, personal property, business interruption, lost income, lost wages, or damage to, or loss of, an automobile, 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 survivor or 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 personal representatives to make such delivery on demand, then in that event the representatives of the CONSULTANT shall be liable to the state for any damages it may sustain by reason thereof. Upon the delivery of all such data to the STATE, the STATE will pay to the representatives of the CONSULTANT all amounts due the CONSULTANT, including retained percentages to the date of 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 and any person associated therewith in the capacity of the owner, partner, director, officer, or major stockholder (five percent or more ownership):

1. is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
2. has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past three (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 – None Noted

ARTICLE 26 – 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 cause 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 27 – 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 28 – 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.

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

(b) 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.

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

ARTICLE 29 – WRITTEN 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
Director, Office of Contract Management
50 Wolf Rd, 6th Floor, Albany, NY 12232**

Telephone Number: (518) 457-2600

Facsimile Number: (518) 457-2875

Email: CONADMIN@dot.ny.gov

Consultant's Name: Enter Prime Consultant Name

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 30 – 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 Diversity and Inclusion 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 31 – COMPLIANCE WITH CONSULTANT DISCLOSURE LAWS

The CONSULTANT shall timely, accurately and properly comply with the reporting requirements of State Finance Law, by submitting the New York State Office of the Comptroller’s “Form A - State Consultant Services – Contractor’s Planned Employment From Contract Start Date Through the End of the Contract Term” initially at the beginning of the contract and “Form B - State Consultant Services – Contractor’s Annual Employment Report” every year the contract is in effect (available through the NYSDOT’s website under Consultant Contract Reporting Requirements at: <https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions>).

ARTICLE 32 – 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 33 – 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 not 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 34 – 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.

ARTICLE 35 - DATA GOVERNANCE

All new and existing System and engineering data shall remain accessible. All existing file and data intelligence shall be preserved and be accessible in any new or updated software environment.

ARTICLE 36 - PROPRIETARY RIGHTS

The CONSULTANT agrees that if copyrights, patentable discoveries or inventions or rights in data should result from the 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, public, make, use and sell each subject invention throughout the world and by and on behalf of the Government of the United State and States and domestic municipal governments, all in accordance with the provisions of 48CFR 1-27, and other applicable Federal laws, rules and regulations.

ARTICLE 37 - INTELLECTUAL PROPERTY RIGHTS TO LICENSED SOFTWARE

Intellectual property rights, and respective definitions, to software other than that governed by Article 37 hereof, are as follows:

Third-Party Software

Third-party Software (if any) utilized under this Project will be provided to NYSDOT with, as applicable, such other license terms as negotiated between the CONSULTANT and the Third-Party and as approved by NYSDOT. The CONSULTANT shall use its best efforts to minimize the costs to the STATE of all Third-Party Software under this CONTRACT.

Consultant-Owned Software

This software is provided by the CONSULTANT to NYSDOT, in accordance with the following terms:

The CONSULTANT grants a nonexclusive license for all Intellectual Property related to all Licensed CONSULTANT-owned and Subconsultant-owned software provided under this CONTRACT for authorized users of NYSDOT (including entities outside of NYSDOT) for the term of this CONTRACT and any extensions thereto.

Such software licenses shall include in their meaning: (i) any enhancements or update of such software developed by the CONSULTANT or its subcontractors during the term of this CONTRACT within the Scope of Services or otherwise provided by the CONSULTANT or its subcontractors/subconsultants to the System and enhancements related thereto; (ii) and all materials, including by not limited to training materials, documentation and technical information provided to NYSDOT in written form and for use in connection with such software.

The CONSULTANT warrants that it has full power and authority to grant the rights granted by this Article to NYSDOT with respect to such software without consent of any other person; and that neither the performance of services by the CONSULTANT not the license to and use by NYSDOT of the software, Update and software Documentation (including the copying and modifying thereof, exclusive of modifications not made by the CONSULTANT) will in any way constitute an infringement or violation of any copyright, trade secret, trademark, patent, invention, proprietary information, non-disclosure, contract or any other rights of any third party.

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The CONSULTANT warrants that such software, Update, its license as described herein, and the services performed by the CONSULTANT shall be in compliance with all applicable laws, rules and regulations.

ARTICLE 38 - INTELLECTUAL PROPERTY DEVELOPED UNDER THIS CONTRACT

Rights to intellectual property developed under this CONTRACT shall be allocated and owned in accordance with the following:

Federal Law

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

Identification of Intellectual Property

The CONSULTANT is responsible for identifying and segregating in advance intellectual property which was or will be developed by the CONSULTANT or its subcontractors/subconsultants under this CONTRACT solely with non-Federal funding.

Trade Secrets

The parties shall not publicly disclose information they obtain resulting from this CONTRACT which is marked and identified as proprietary or confidential, and which consists of information such as trade secrets or commercial or financial information that is privileged or confidential within the meaning of Section 552(b)(94) of Title 5, U.S.C.

FHWA License

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

Patents

Rights to inventions made under this CONTRACT shall be determined in accordance with 37 CFR Part 401. The standard patent rights clause at 37 CFR Section 401.14, as modified below, is hereby incorporated by reference:

- a. The terms "to be performed by a small business firm or domestic nonprofit organization" shall be deleted from paragraph (g)(1) of the clause;
- b. Paragraphs (g)(2) and (g)(3) of the clause shall be deleted; and
- c. Paragraph (1) of the clause, entitled "Communications" shall read as follows:
"(1) Communications. All notifications required by this clause shall be submitted to the FHWA Division Office."

Ownership

The STATE shall own, outright, any software and associated documents that are specific to the Project Scope and Deliverables developed under this CONTRACT.

Should perpetual licenses not be granted, NYSDOT shall retain rights to all licenses (without fees, maintenance, and support) and the use of the software shall be granted, without restrictions, for a period of at least fifteen (15) years after expiration of this CONTRACT. NYSDOT shall retain ownership of, and have unrestricted access to, all engineering data and other files stored in the document management system. Upon expiration of this CONTRACT, all externally stored data shall be transferred to NYSDOT, otherwise unrestricted access to it shall be granted at no cost for perpetuity. No encryption or other restrictive controls shall be imposed upon the data that limits its use or accessibility unless otherwise authorized. The CONSULTANT has no rights to stored or transferred data and shall not access or share data with others unless otherwise explicitly authorized

by NYSDOT in writing. Any resources, settings, tools, configurations, customizations, etc., developed by the CONSULTANT, including subcontractors/subconsultants and On-site Consultants, in specific support of NYSDOT operations shall become the property of the Prime Consultant yet a free forever usable copy shall be provided and remain available to NYSDOT at no cost for perpetuity.

Backups

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

ARTICLE 39 - NON-INFRINGEMENT/COMPLIANCE WITH LAWS

The CONSULTANT warrants that in performing the Work called for by this CONTRACT, that the CONSULTANT shall not violate any applicable law, rule, or regulation, any contracts with third parties, or any intellectual rights of any third parties, including, but not limited to, a United States patent, trademark, copyright or trade secret.

ARTICLE 40 - DELIVERY OF DEVELOPED SOFTWARE

All source and object codes for the Developed Software (e.g., all software custom developed for this Project shall be provided to NYSDOT during System Implementation to support the maintenance of the Project. This shall include the software, documentation of the customization, and training materials for the maintenance of the customized software.

ARTICLE 41 - TRAINING, SUPPORT and MAINTENANCE

The CONSULTANT shall offer training in the use of and implementation of the software and any COTS, Developed or Consultant-owned Software, to NYSDOT Staff, Consultant and other structure owners including, but not limited to, municipalities, state and local authorities, commissions, and railroads who will be using the software, in accordance with Schedule A and any other part of this CONTRACT.

Scope and Duration of Consultant Maintenance and Support of Proprietary, Developed and/or Licensed Third-Party Software and Systems

Following initial installation and implementation of the proprietary, developed, or licensed third-party software and related systems involved in the Project underlying this CONTRACT, the CONSULTANT shall provide ongoing maintenance and support during the term of this CONTRACT for such software and systems. The CONSULTANT shall, at a minimum, provide NYSDOT with the same level of maintenance and support for the CONSULTANT'S proprietary, developed, and/or licensed software that the CONSULTANT provides to other institutional clients and customers.

Terms and Conditions of Maintenance

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

Scope and Duration of Consultant Support for NYSDOT Usage of Proprietary, Developed, and/or Licensed Third-Party Software

The CONSULTANT shall provide technical support during NYSDOT's installation and implementation of any Developed or all Consultant-owned Software and Systems, as set forth in Requirements of the RFP, and any other part of this CONTRACT. Following the initial installation and implementation of the proprietary, developed, or licensed third-party software and related systems involved in the Project underlying this CONTRACT, the CONSULTANT shall provide ongoing technical support during the entire term of this CONTRACT for NYSDOT usage of such software and systems, which shall cover all Consultant-provided software and systems, be of the scope and duration, include the types of support, and be conducted in accordance with the requirements, set forth in Requirements of the RFP, and any other part of this CONTRACT.

Terms and Conditions of Support

Subject to such different or additional terms and conditions as may be set forth in Requirements of the RFP, and any other part of this CONTRACT, the CONSULTANT shall, at a minimum, provide good and sufficient twenty-four (24) hour, year-round support through a toll-free "800" telephone number connection to the CONSULTANT'S technical support staff, and through an Internet web site through which NYSDOT staff may contact the CONSULTANT'S technical support staff 24 hours a day, 7 days a week, 365 days a year, in order to present inquiries and/or requests for support and technical assistance, and obtain such assistance.

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

ARTICLE 42 - SYSTEM ACCEPTANCE

If NYSDOT determines that any applicable portion of the Project has not successfully met the requirements of any applicable system acceptance during any System Implementation Phase, NYSDOT shall promptly notify the CONSULTANT in writing (hereinafter referred to as "notice of failure") and shall specify with as much detail as possible in which respects the system does not perform properly. The CONSULTANT shall respond within ten (10) business days with a corrective-action plan and schedule to address all issues related to the failure(s), subject to NYSDOT's approval. If NYSDOT rejects the corrective-action plan provided by the CONSULTANT, NYSDOT may determine that the CONSULTANT is in material default under this CONTRACT for purposes of the Suspension and Termination provisions of this CONTRACT or as provided elsewhere within the legally binding CONTRACT documents, or NYSDOT, at its sole discretion, may afford the CONSULTANT with additional opportunity to cure the default.

Repeated Failure Constituting Material Breach. If the system fails to perform properly in accordance with the system acceptance for a second time, NYSDOT may determine that such failure constitutes a material default under this CONTRACT for the purposes of the Suspension and Termination provisions of this CONTRACT or as provided elsewhere within the legally binding CONTRACT documents, or NYSDOT, at its sole discretion may afford the CONSULTANT with additional opportunity to cure the default.

Contract(s): C004309

Project Title: NYMTC Website Redesign to Drupal Platform

Correction Costs. The CONSULTANT’S correction of the product deficiency shall be at no additional cost to NYSDOT unless the system acceptance failure(s) are the result of Disputed Work within the meaning of Article 16 Damages and Delays of this CONTRACT (in which case the remedy within such section applies). The CONSULTANT shall, however, bear sole responsibility for the costs of correction of product deficiencies revealed by such testing, including all previously unanticipated and unscheduled time and effort required for the development of corrective measures.

Contract(s): C004309

Project Title: NYMTC Website Redesign to Drupal Platform

IN WITNESS WHEREOF, this agreement (**C004309**) has been executed by the STATE, acting by and through the Commissioner of Transportation, and the CONSULTANT or their appointed representative, who has executed this agreement on the day and year written below.

[Consultant Firm Name]

By: _____
Printed Name, Title

Signature: _____

Date: _____

Agency Certification(s)

The New York State [Department](#) of Transportation has undertaken an affirmative review of the proposed Consultant's responsibility in accordance with the standards outlined in the Office of the State Comptroller's *Guide to Financial Operations*, Chapter XI. 16, and based on such review, has reasonable assurance that the proposed CONSULTANT is responsible.

All information provided with respect to the requirements contained in State Finance Laws Section §139-j & §139-k is complete, true, and accurate. All requirements for State Finance Laws Section §139-j & §139-k have been met and the appropriate documentation is attached.

In addition to the acceptance of this CONTRACT, the DEPARTMENT certifies that original copies of 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

Signature

Signature

Printed Name, Title
Office of Contract Management

Printed Name, Title
Office of Contract Management

Date: _____

Date: _____

ATTORNEY GENERAL:

STATE COMPTROLLER:

By: _____

By: _____

Date: _____

Date: _____

Contract(s): C004309

Project Title: NYMTC Website Redesign to Drupal Platform

Acknowledgment for Contract C004309

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:

Contract(s): C004309

Project Title: NYMTC Website Redesign to Drupal Platform

APPENDIX A - STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS June 2023

<https://www.dot.ny.gov/main/business-center/contacts>

APPENDIX B - REQUIREMENTS FOR FEDERALLY-AIDED TRANSPORTATION PROJECTS (June 2016)

<https://www.dot.ny.gov/main/business-center/contacts>

U.S. GOVERNMENT (FTA) REQUIRED CLAUSES January 2023

<https://www.dot.ny.gov/main/business-center/contacts>

APPENDIX C - SPECIAL EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS Updated July 2017

<https://www.dot.ny.gov/main/business-center/contacts>

**APPENDIX D - PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES:
REQUIREMENTS AND PROCEDURES** (revised State 7-12-2017) <https://www.dot.ny.gov/main/business-center/contacts>

Contract(s): C004309

Project Title: NYMTC Website Redesign to Drupal Platform

Attachment 2: Consultant Information

Firm Name: _____

Address: _____

City, State: _____ Zip Code: _____

Telephone (____) _____ - _____

Contact Person Name: _____ Title: _____

Email Address: _____

Please indicate below the name, title, address, telephone number and email address of the person who has the authority to contractually bind the Proposer.

Name _____ Title: _____

Address: _____

City, State: _____ Zip Code: _____

Telephone (____) _____ - _____

Email Address: _____

Attachment 3: Procurement Lobbying Law Act Certification Form

Offerer Disclosure of Prior Non-Responsibility Determinations and Understanding and Agreement to Comply

Part I – DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS**1. Name and Address of Individual or Entity Seeking to Enter Into the Procurement Contract**

1.2. Has any Government Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? If YES, please also answer questions 2 – 4. If NO, skip to question 5.	☐ Yes	☐ No
2.3. Was the basis for the finding of non-responsibility due to a violation of State Finance Law?	☐ Yes	☐ No
3.4. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Government Entity?	☐ Yes	☐ No
4.5. If you answered YES to any of the above questions, please provide details regarding the finding of non-responsibility below: Government Entity: Date of Finding of Non-Responsibility: Basis of Finding of Non-Responsibility: <i>(Attach additional pages as necessary to provide sufficient detail)</i>		
5.6. Has any Governmental Entity or other Governmental agency terminated or withheld a Procurement Contract with the individual or entity seeking to enter into the Procurement Contract due to the intentional provision of false or incomplete information?	☐ Yes	☐ No

6.7. If you answered YES to Question 5 above, please provide details below:
Governmental Entity:
Date of Termination or Withholding of Contract:
Basis of Termination or Withholding:
(Attach additional pages as necessary to provide sufficient detail)

PART 2 – AFFIRMATION OF UNDERSTANDING and AGREEMENT TO COMPLY

Offerer affirms this **Day of** , **20** that it understands and agrees to comply with the procedures of the Government Entity relative to permissible contacts as required by State Finance Law §139-j(3) and §139-j(6)(b).

Business Entity Name and Address:

By (Signature) _____ **Printed Name and Title:**

Date:

Attachment 4: Consultant Certification

Consultant Certification

I, the undersigned, in my official capacity first stated below, certify that the information submitted is truthful, accurate, and complete, and the Proposer, in submitting a Proposal to the New York State Department of Transportation, has complied with all applicable terms and conditions set forth in the Request for Qualifications (RFQ), Request for Proposals (RFP), or Invitation for Bids (IFB) and the Proposer certifies to those such requirements, as set for the below:

I. CERTIFICATIONS

A. STATE & FEDERALLY FUNDED CONTRACTS

- i. Proposer, under penalty of perjury, that all the responses provided to the Department with respect to its submitted Form AC-3290-S New York State Vendor Responsibility Questionnaire For-Profit Business Entity, are complete, true and accurate, and further Proposes and acknowledges that it, and any subcontractor/subconsultant performing work valued at \$100,000 or greater, must remain a responsible business entity throughout the duration of the Contract;
- ii. By submission of this Proposal, each Consultant, and each person signing on behalf of any Consultant, and in the case of a joint Proposal each party thereto, certifies as to its own organization, under penalty of perjury, that the Consultant has, and has implemented, a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of Section 201-G of the New York State Labor Law.
- ~~ii.~~ iii. Pursuant to NYS Finance Law §139-M, 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 as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing gender-based violence and the workplace has provided such policy to all of its employees, directors and board members. Such policy shall, at a minimum, meet the requirements of subdivision 11 of section five hundred seventy-five of the executive law.
- ~~iii.~~ iv. Vendor Assurance of No Conflict of Interest or Detrimental Effect
The Proposer attests that its performance of the services outlined in this Proposal does not and will not create a conflict of interest with, nor position the Proposer to breach, any other contract currently in force with the State of New York.

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

- a. The fulfillment of obligations by the Proposer, as proposed in the response, does not violate any existing contracts or agreements between the Proposer and the State;
- b. The fulfillment of obligations by the Proposer, 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 Proposer has with regard to any existing contracts or agreements between the Proposer and the State;

- c. The fulfillment of obligations by the Proposer, as proposed in the response, does not and will not compromise the Proposer's ability to carry out its obligations under any existing contracts between the Proposer and the State;
- d. The fulfillment or any other contractual obligations that the Proposer has with the State will not affect or influence its ability to perform under any contract with the State resulting from this Proposal;
- e. During negotiations and execution of any contract resulting from this Proposal, the Proposer 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;
- f. In fulfilling obligations under each of its State contracts, including any contract which results from this Proposal, the Proposer 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;
- g. No former officer or employee of the State who is now employed by the Proposer, nor any former officer or employee of the Proposer 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 NYS Public Officers Law; and
- h. The Proposer 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 to as a reward for any official action on the part of said employee, member or director.

Proposers responding to this RFQ/RFP/IFB should note that the State recognizes that conflicts may occur in the future because a Proposer 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.

B. FEDERALLY FUNDED CONTRACTS

- i. The Proposer shall conform in all respects in accordance with the true intent and meaning of each and all of the requirements set forth in FHWA-1273 *Required Contract Provisions Federal-Aid Construction Contracts* upon award. When any such Federal Provisions may be in conflict with any other provisions of the contract, the Federal Provisions shall prevail and take precedence and be of force over and against any conflicting provisions of said contract.
- ii. The Proposer shall insert Form FHWA-1273 *Required Contract Provisions Federal-Aid Construction Contracts*, into all subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). The Proposer (or [Subcontractor/Subconsultant](#)) shall incorporate by reference the applicable requirements of Form FHWA-1273 for work conducted under any purchase order, rental agreement, or agreement for other services.

- iii. For Federal-Aid contracts only, certify, under penalty of perjury, as to the current history regarding suspensions, debarments, voluntary exclusions, determinations of ineligibility indictments, convictions or civil judgments required by *FHWA Form 1273 Required Contract Provisions Federal-Aid Construction Contracts – Section X “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion”*, and certifies to include this provision in all lower tiered transactions valued at \$25,000 or more, as set forth in FHWA-1273.
- iv. Certification of Eligibility (29 CFR 5.5)
By entering into this contract, the Proposer certifies that neither it (nor he or she) nor any person or entity who has an interest in the Proposer’s business entity is a person or entity ineligible to be awarded Government contracts by virtue of section 3(a) of the David-Bacon Act or 29 CFR 5.12(a)(1). No part of this contract shall be subcontracted to any person or entity ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). The penalty for making false statements is prescribed in the U.S. Criminal Code, 19 U.S.C. 1001.
- v. Certification Regarding Use of Contract Funds for Lobbying (applicable to all Federal-Aid contracts, AND to all related subcontracts exceeding \$100,000 (49 CFR 20))
 - a. The prospective participant certifies, by signing and submitted this Bid or Proposal, to the best of their knowledge and belief, that:
 - 1. No Federal appropriated funds have been paid or will be paid, by or on behalf o the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, “Disclosure of Lobbying Activities” in accordance with its instructions.
 - b. 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. Code §1352. 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, and that all such subcontractors shall certify and disclose accordingly.
 - c. The Prospective Participant shall require that the language of this section v. shall be included in all lower tier subcontracts which exceed \$100,000, and that all such subcontractors shall certify and disclose accordingly.

I have read and accept all terms and conditions contained in the Draft Contract, including all appendices. This Proposal is a firm offer for a 365-day period from the date of the Proposal submission.

Contract(s): C004309

Project Title: NYMTC Website Redesign to Drupal Platform

Dated: _____, 20____

Legal Name of person, Proposer or Corporation

By: _____

(Signature) (Title)

Attachment 5: Executive Order 177 Certification

(Selected Consultant shall submit with executed contract documents.)

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

EXECUTIVE ORDER 177

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 accommodations 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 a reasonable accommodation in employment on the basis of Sabbath observances or religious practices.

Generally, the Human Rights Law applies to:

- All employees of four or more people, employment agencies, labor organizations and apprenticeships 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.

Proposer: _____

Name: _____

Signature: _____ Date: _____

Attachment 6: Executive Order 16 Certification

(Selected Consultant shall submit with executed contract documents)

Certification Under Executive Order No. 16 Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia

Executive Order No. 16 provides that “all Affected State Entities are directed to refrain from entering into any new contract or renewing any existing contract with an entity conducting business operations in Russia.”

The complete text of Executive Order No. 16 can be found [here](#).

The Executive Order remains in effect while sanctions imposed by the federal government are in effect. Accordingly, vendors who may be excluded from award because of current business operations in Russia are nevertheless encouraged to respond to solicitations to preserve their contracting opportunities in case the sanctions are lifted during a solicitation or even after award in case of some solicitation.

As defined in Executive Order No. 16, an “entity conducting business operations in Russia” means an institution or company, wherever located, conducting any commercial activity in Russia or transacting business with the Russian Government or with commercial entities headquartered in Russia or with their principal place of business in Russia in the form of contracting, sales, purchasing, investment, or any business partnership.

Is Vendor an entity conducting business operations in Russia, as defined above? Please answer by checking one of the following boxes.

- ☐ 1. No, Vendor does not conduct business operations in Russia within the meaning of Executive Order No. 16.
- ☐ 2a. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but has taken steps to wind down business operations in Russia or is in the process of winding down business operations in Russia. (Please provide a detailed description of the wind down process and a schedule for completion).
- ☐ 2b. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16 but only to the extent necessary to provide vital health and safety services within Russia or to comply with federal law, regulations, executive orders, or directives. (Please provide a detailed description of the services being provided or the relevant laws, regulations, etc.)
- ☐ 3. Yes, Vendor conducts business operations in Russia within the meaning of Executive Order No. 16.

The undersigned certifies under penalties of perjury that they are knowledgeable about the Vendor’s business and operations and that the answers provided herein is true to the best of their knowledge and belief.

Vendor Name (legal entity): _____

By (signature): _____

Name and Title: _____

Date: _____

Attachment 7: M/WBE EEO Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Policy Statement
Not Applicable

Attachment 8: Utilization Plan – DBE Participation
Not Applicable

Attachment 9: Utilization Plan – M/WBE/SDVOB Participation
Not Applicable

Attachment 10: NYS Business Reporting
Not Applicable

Attachment 11: Key Personnel References

Instructions:

- Complete one Attachment 11 for each Key Personnel title identified in the RFP.
- Attachment 11 shall not exceed six (6) pages for each Key Personnel.
- Proposer's may expand the boxes as necessary.
- The term "Client" below refers to the past project owner. "Client" is NOT a Prime Contractor where the proposing firm acted in the capacity as a Subcontractor.

1. Personnel Name and Title	
2. Title Assigned for this Project	
3. Firm working for on this Project	
4. Current Employment Status	___ Employed by Firm identified in 3. above ___ Employed by a different Firm ___ Unemployed
5. Years of Relevant Experience	
6. Description of Relevant Experience	
7. Certification/Licenses	
8. Education	
9. Past Project Experience	Complete below for a maximum of 5 past projects
9.1 Project Description #1 (include contract number where appropriate)	
9.2 Client Name	
9.3 Client Contact Information (including contact name, phone number, and email address)	
9.4 Description of person's role and responsibilities during project	
10.1 Project Description #2 (include contract number where appropriate)	
10.2 Client Name	
10.3 Client Contact Information (include contact name, phone number, and email address)	
10.4 Description of person's role and responsibilities during project	
Add additional rows if needed	

Attachment 12: Contract Job Title Descriptions & Qualifications

The Proposer must name the individuals who will be assigned to this project and document, with specifics how their experience meets the requirements of the RFP. The Proposal must include resumes of key personnel who will be assigned to this project, including the Prime Proposer and any proposed subconsultants. All staff must meet the minimum staff qualifications listed below for their proposed title. The Proposer may include any additional staff titles required to complete the project.

Consultant Project Manager: The Consultant Project Manager must possess at least five (5) years of experience managing website analysis/design and building projects.

The Consultant Project Manager will:

1. Serve as the primary point of contact and must have the authority to act on behalf of the contractor in all aspects of the services to be performed.
2. Be responsible for directing the work of contractor personnel.
3. Provide verbal status reports to the NYMTC project manager, accompanied by supporting documentation; including activities accomplished, activities planned, issues, and resource summary.
4. Work with the project stakeholders and team to determine the project schedule, including key milestones and project gates;
5. Track decisions, risks, tasks, and deliverables throughout the life of the project;
6. Track performance against project plan;
7. Ensure that all parties are “in the loop” regarding project status;
8. Manage tasks and activities of subcontractors (as applicable); and
9. Ensure that all deliverables are met and conform with NYMTC and NYS ITS expectations on completeness and quality.

Web Designer(s): Web designers must possess the following minimum qualifications:

1. at least two (2) years of experience designing websites.
2. Proposer should document the number of years of experience in:
 - a. Designing website architecture, navigation and layout;
 - b. Designing for mobile devices and tablets;
 - c. Designing for different platforms and browsers;
 - d. Designing backend user interfaces;
 - e. Analyzing and testing usability of websites;
 - f. Implementing accessibility requirements for persons with disabilities at the certification level required for this project; and NYS language accessibility.

Drupal Developer(s): Drupal developer(s) must possess the following minimum qualifications:

1. At least two (2) years of experience in developing websites using Drupal 8 or higher.
2. Proposer should document the number of year of experience in:
 - a. Developing Drupal themes and sub-themes;
 - b. Working with continuous integration tools such as Travis CI, Acquia BLT, and Acquia Pipelines;
 - c. Working collaboratively using Git and Git Flow;
 - d. Developing Drupal custom modules and utilizing code-based configuration management;
 - e. HTML, JavaScript, and CSS;

- f. Responsive web design;
 - g. Using accessibility validation tools;
 - h. Migrating existing content into Drupal content management system;
 - i. PHP;
 - j. Acquia Cloud Services;
 - k. Apache Solr; and
 - l. MySQL.
3. Proposer should provide Drupal certifications, if applicable.

Content Specialist(s): Content Specialist(s) should possess the following minimum qualifications:

- 1. At least two years' experience auditing the content of complex websites.
- 2. Proposer should document the number of years of experience in:
 - a. Large scope content migration, planning and implementation;
 - b. Content categorization using taxonomies;
 - c. Document organization and associated meta-data;
 - d. Analyzing and grading content readability;
 - e. Working with various teams across a large organization to create a cohesive content plan; and
 - f. Working with images, video, and other media.

Drupal Architect: the Drupal Architect should possess the following minimum qualifications:

- 1. At least two (2) years of experience designing complex Drupal websites. Relevant certifications should be provided.
- 2. Proposer should document the number of years of experience in:
 - a. Working across teams and disciplines to identify and define solutions, such as custom code, information architecture, application integrations, platform performance, project/sprint planning, and advanced problem solving;
 - b. Translating client requirements into technical requirements;
 - c. Providing guidance and expertise to the rest of the team;
 - d. Enforcing standards and best practices; and
 - e. Strong development fundamentals.

Attachment 13: Detailed Scope of Services

The redesign and implementation of Drupal 9-11 will be limited to the main public NYMTC website and the integration of ~~subsites~~, tools, and wizards. NYMTC does not expect the Consultant to redesign the functionality of online applications, except where some reasonable integration is critical to the user experience. NYMTC does want all application and transaction login pages to be consistent with the look and feel of the whole site.

In cooperation with NYMTC, the Consultant must develop HTML design templates for transaction and login areas of the site that incorporate NYS and NYMTC branding and must advise NYMTC staff in applying branding and templates to each application. NYMTC will not pay a license fee for any of the Products (deliverables) under this project. Title to all Products (deliverables) will be with NYMTC.

This project will include the following:

- 1) Implementation of Acquia Pipelines as the Continuous Integration tool;
- 2) Implementation of automated testing (functional as well as visual regression);
- 3) Seamless integration with Acquia Edge (Cloudflare based);
 - a) This includes a 95% cache hit rate
- 4) Creating an XML sitemap generator;
- 5) Functionality that allows content editors the ability to create calendars;
- 6) Functionality that allows for the creation of an interactive map that can show specific event or office locations;
- 7) Functionality that allows content editors to create tables in a WYSIWYG;
- 8) Employing of bread crumb trail functionality on each page that is created and updated automatically when pages are created or moved; and
- 9) Creating SEO functionality that is compliant with current webmaster protocols that include, but is not limited to:
 - a) Dynamic tag and metadata universal.
 - b) Ability to properly populate individual page tag and metadata fields; and
 - c) Ability to set up file name conventions
 - d) Automated scaling of images for various breakpoints.
- 10) Tracking of all tasks and project deliverables through the NYS ITS Jira.
- 11) All code will be stored in an assigned NYS ITS Github repository;
 - a) All custom features will be fully documented in the repository's accompanying wiki or in readme files.
 - b) This will be considered the source of truth.
- 12) Auditing and Compliance:
- 13) Code and Site Configuration
 - a) NYMTC will request a code review from NYS ITS to verify that best practices are being followed.
- 14) Branding
 - a) NYMTC will request a branding review from NYS ITS to verify that branding guidelines are being followed.
- 15) Content
 - a) NYMTC will request a content review from NYS ITS to verify that content guidelines are being followed.
- 16) Security
 - a) NYS ITS requires a security scan of the site before launch and will periodically test it after launch.
- 17) Acquia

- a) Acquia Professional Services will perform an in-depth audit before the site launches which will be evaluated by NYMTC and NYS ITS.

18) Performance

- a) Most NYS sites will require a performance test before launch, and the vendor is required to provide support in such a case.
- b) Disclose any non-cacheable functionality, including, but not limited to, unique-to-each-user pages and authenticated sessions.

Hosting Environment:

NYS OITS will provide enterprise hosting with production, staging, and development environments on Acquia Cloud Next with up to 3 on-demand environments (ODE). Features that are available with this service include:

- 1) ~~Acquia Search (Apache Solr)~~ [Searchstax](#)
- 2) Pipelines (Continuous integration tool similar to Travis CI)
- 3) MySQL
- 4) Varnish and Memcached
- 5) Acquia Cloud Edge (Cloudflare)

The following are out of scope for this project:

- 1) Disaster recovery.
- 2) Platform architecture.
- 3) Content Delivery Network (CDN), standard setup.
- 4) Platform administration, including Domain Name setup, SSL certificates, Platform Email (for administrative purposes only), Backups
- 5) Security scans.
- 6) Uptime monitoring.

Task 1: [Analysis and Research](#)

The Consultant will perform detailed market research and brand analysis, focusing on assessing the website's quality and relevance.

NYMTC has a vast audience that includes transportation officials from federal, state, and local governments, tribal nations, civic and community board organizations, the general public, and the media.

The work will support and develop NYMTC's strategic communications goals, including the detailed discovery of ways to enhance NYMTC's ~~brand and~~ [brand and](#) the recognition of NYMTC-administered programs and services. When complete, NYMTC should have:

- 1) Identified how to create and display accessible and informative content on its websites and in its outreach materials; and
- 2) Determined opportunities to improve and diversify its content and service delivery for specific audience groups.

[Note: The Consultant is not expected to create or edit content.](#)

NYMTC ~~requires that~~ [requires a](#) [the](#) vendor [to](#) conduct a complete website audit. Within this work, at a minimum, the vendor shall:

- 1) Conduct a complete content audit with a focus on design, reliability, and usefulness of the content that will be presented to NYMTC and will be used to assist in the design of the site's new IA and content plan;
- 2) Familiarize themselves with the existing data and IA structures in use with other ny.gov branded sites to help inform the content plan;
- 3) Conduct customer research through industry-standard quantitative and qualitative methods, such as card sorting and information architecture design activities;
- 4) Identify specific messaging objectives that the brand needs to be effective for each target audience;
- 5) Conduct user testing of all new creative approaches;
- 6) Conduct research into design patterns and industry best practice sites with similar interactions to serve as a reference during the design phase;
- 7) Use JIRA or another project management application to develop user stories and develop personas for common users that can give human-centric grounding to all design and development decisions;
- 8) Create journey/experience maps/storyboards/wireframes;
- 9) Identify priority user journeys;
- 10) Determine steps to optimize and streamline user journeys.

Deliverables:

1. Discovery report explaining the chosen methodology, including an overview and project recommendations
2. Presentation of the Discovery report to the PM, showing how the creative plan:
 - a. Was determined based upon research and testing,
 - b. Is achievable and sustainable moving forward,
 - c. Can be implemented, and
 - d. Addresses the strengths, weaknesses, and opportunities previously identified.

Task 2: Information Architecture, Design, and Branding

Task 2.1: Information Architecture (IA)

In conjunction with the NYMTC Project Manager, the Consultant will develop an intuitive, all-inclusive, , and editable IA that will be the foundation for the new NYMTC website ~~and its subsites~~.

Deliverables:

- 1) Document reviewing content types, fields, metadata (inc. SEO and social media related), and taxonomies, as well as explaining how each maps to visual components and other functionality.
- 2) Redesigned IA consistent with NYS content patterns.
- 3) Site map.
- 4) A navigational schema that provides an improved navigational structure.
- 5) Wireframes, prototypes, or other mock-ups required to plan and track the process, and obtain NYMTC approval for the redesigned home page, major landing pages, and any other pages deemed necessary for this project.

Task 2.2: Design and Branding

The Consultant must provide a look and feel for NYMTC.ny.gov and pages that combines style and function appropriate to meet NYMTC's objectives and users' needs, including a visual design that:

- 1) Present a clean, modern, and professional appearance that encourages user engagement. Follows NYS Branding and Style Guidelines for fonts, palettes, photos, and graphics to bolster functionality and aesthetic considerations.
- 2) Incorporates the NYS global header and footer using the NYS Drupal module.
- 3) Incorporates appropriate social media icons and feeds, as determined by NYMTC, such as Facebook, Twitter, and YouTube (with icons and associated links that can be added, edited, and deleted as needed).
- 4) Integrates NYMTC's existing web transaction and login pages with the content published through Drupal ~~10~~¹¹, including applying standard page layout and templates for those pages.
- 5) Integrates NYMTC's ~~subsites~~, application log-in pages~~7~~, and web tools.
- 6) Allows NYMTC's site administrators to update web tool variables through the CMS as reasonably necessary.

Deliverables:

All templates designed by the Consultant must be approved by NYMTC and comply with New York State (NYS) branding guidelines.

- 1) Visual mockups designed in a modular/template/extensible manner so that visual templates and sections can be applied to cover all wireframe (or non-wireframed) instances.
- 2) Visual mock-ups for, at minimum, the homepage and three (3) down-level pages for three (3) top audience groups.
- 3) Visual mock-ups must include smartphone, tablet, and desktop views.
- 4) Batch visual designs for reviewers.

Task 3: Development

Task 3.1: Development Environment

NYS ITS will provide the Consultant with a development and staging environment on an Acquia Cloud Enterprise platform.

NYMTC and NYS ITS must approve additional subsites before any planning is done, even if they are required for marketing purposes.

Code deployments to the development environment must use Acquia Pipelines provided by ITS.

Promotion to Staging can be automated or manual. Production deployments must be coordinated with NYS ITS and NYS Change Management Office and include a Pull Request that documents changes to be deployed.

Task 3.2: Website Development

The Consultant will develop the new NYMTC.ny.gov website using the latest stable version of Drupal using only modules supported by the Drupal.org security team. Custom module usage should be limited. Undisclosed deviations found during audits may cause rework.

The Consultant must:

- 1) Complete regular sprint planning with NYMTC;
- 2) Work with the NYMTC project manager to align sprints and project plans, including providing weekly status updates for reporting;
- 3) Perform weekly or as necessary grooming and backlog management with NYMTC;
- 4) Provide velocity updates to the NYMTC PM each sprint;
- 5) Provide a demo of functionality to NYMTC and allow up to three days of user acceptance testing at the end of each development sprint;
- 6) Revisit discovery and design as necessary to solve challenges encountered during development;
- 7) Provide technical demos on custom functionality; and
- 8) Proactively work with NYMTC to arrange audits at various stages of development.

Task 3.3: Themes and Modules

The Consultant will:

- 1) Create a sub-theme that follows NYS Branding Guidelines;
- 2) The design of marketing sites must be approved by NYMTC prior to development;
- 3) Themes should contain limited logic and use modules if necessary;
- 4) All community modules should be supported by the Drupal.org security team unless approved by NYS ITS;
- 5) Follow Drupal.org best practices for custom modules;
- 6) Avoid excessive use of custom code, redundant code, poorly commented or formatted code, as they may result in rework;
- 7) Requirements that specify any non-standard hardware, software, or 3rd party services necessary for the Drupal ~~10~~ 11 implementation and for continued hosting by NYMTC's designated Hosting Service Provider; and
- 8) Support and consultation as necessary during development.

Task 3.4: Responsive Design and Mobile Compatibility

The Consultant must develop websites that prioritize the delivery of content to mobile devices while maintaining desktop version compliance with branding. Several breakpoints are predefined; however, analytics and research should determine the specific requirements for the NYMTC site. A separate domain for mobile traffic, mobile apps, and any solution that provides different content based on the device is not acceptable.

Deliverables:

- 1) Document providing recommendations for content and marketing as they relate to mobile engagement and
- 2) Highly performing mobile interface(s) with low page load times (bandwidth and processing).

Task 3.5: Browser Compatibility

The Consultant will format both sites to meet all current browser and software operating system requirements on the most common hardware platforms.

Refer to the ITS policy page for more details. <https://its.ny.gov/policies?keyword=browsers>

Additionally, the Consultant must ensure that foreign alphabet symbols and characters display properly on all current browsers when viewed on NYMTC's site.

Task 3.6: Analytics Platform

The Consultant will collaborate with NYMTC to implement a web analytics platform for NYMTC's use, incorporating data that reflects activities occurring on the newly established site. This platform will enable NYMTC to continually measure key performance indicators, improving the site and overall user experience. The new site pages, coding, data, and metadata must be optimized during development to provide data once the site is launched. Google Drupal module and Google Tag Manager must be properly installed and configured for the new site.

Deliverables:

- 1) Optimization of current web metrics tools and implementation of other tools as agreed to by NYMTC; and
- 2) Dashboards and reports that will inform NYMTC staff about website performance on an ongoing basis.

Task 4: Migration

The Consultant will migrate content from NYMTC's current website to the new website. The NYMTC/OITS team will provide oversight and control over the migration process.

The consultant will undertake the following to migrate content from NYMTC.org, and any content developed as part of this contract, to the new website:

- 1) Develop and provide a content migration plan that describes how existing site content (including, but not limited to, page copy, page shortcuts, documents, and media files) will be audited, inventoried, and migrated to the new website.
- 2) Explore all reasonable means of content identification, including, but not limited to, database, file system, analytics, server logs, Subject Matter Expert (SME) interviews, etc.
- 3) Work with NYMTC to define a quality assurance plan for content.
- 4) Provide a content migration map for use in transitioning content to the appropriate areas of the new website.
- 5) Include a 404-monitoring process after the site launch and a method to fix broken links.
- 6) Collaborate with NYMTC to establish redirects for users and bots, directing them to the new locations of pages and documents.
- 7) Supply guidance to NYMTC on content governance, structure, policies, and procedures to be developed by NYMTC in conjunction with the Consultant.
- 8) Develop any migration scripts needed to execute the content migration plan and include a plan for any content that cannot be migrated with scripts that may need to be manually migrated by the Consultant and
- 9) Provide an implementation plan to place into the site any images, video files, or any other types of files that were created during the design phase. This includes but is not limited to, specifying how new materials and files will be made available to NYMTC for review in their proposed locations as development progresses.

Deliverables:

- 1) Content Migration Plan and Map.
- 2) Quality Assurance Plan.

- 3) Migration Scripts.
- 4) Implementation Plan.

Task 5: Testing and Quality Assurance

The Consultant will conduct extensive testing prior to deployment of the new website to ensure that it is completely operational with no defects.

The Consultant will conduct usability studies throughout the project to ensure that the new website meets the needs of NYMTC and its customers to NYMTC's satisfaction and meets NYS accessibility and language access guidelines, Drupal coding best practices, and vulnerability testing.

Deliverables:

- 1) Quality Assurance Test Plan that includes test scripts.
 - a) Creation of the test plan should begin with development. It should describe the testing cycles and the duration of each cycle. The cycles should conform to best practice but ideally would be performed throughout development as requirements are fulfilled and repeated at the end of development.
 - b) All requirements and deliverables described herein should be represented by one or more test cases within the test plan.
 - c) Each test case should have clear pass or fail conditions to determine if each requirement is present and functioning correctly.
 - d) The initial test plan and all subsequent versions must be reviewed and approved by NYMTC.
 - e) Results of quality assurance testing that include defect logs.
- 2) Usability Test Plan.
 - a) Results of usability studies, ranked by severity and degree of importance;
 - b) An Action Plan for addressing any usability issues; and
 - c) Resolution of usability issues as prioritized with NYMTC.

The websites should be free of all "bugs," for user acceptance testing by NYMTC on the production web environment, which is inaccessible to the public using the Drupal Shield module or similar pre-production protection.

The Consultant must provide QA testing steps during development to the NYMTC Project Manager via Jira or the designated project management software. Testing steps may be shared with subject matter experts for audits or other purposes at NYMTC's discretion. Some common testing focuses include:

- 1) Web Content Accessibility Guidelines ([WCAG 2.2 AA](#)) (~~WCAG 2.0, AA~~;
- 2) NYS language accessibility guidelines;
- 3) Coding best practices using Drupal coding standards;
- 4) Cross-browser and mobile device testing; and
- 5) Functionality and design.

A formal site audit will be completed for each site, by NYS ITS in conjunction with Acquia Professional Services before launch. The Consultant will assist in the evaluation. Some common audit focus areas include:

- 1) Adherence to best practices;
- 2) Quality of custom code;
- 3) Security;
- 4) Performance tuning;

- 5) Site configuration; and
- 6) Maintainability.

All issues must be resolved by the Consultant and accepted by NYMTC and appropriate parties.

Task 6: Knowledge Transfer and Training

The Consultant must provide the level of knowledge transfer necessary for NYMTC developers to manage and maintain the new website and its subsite(s) and the knowledge necessary for NYMTC to train and manage all levels of the agency's content editors and site administrators.

Deliverables:

The Consultant must present and provide to the NYMTC Project Manager:

- 1) Training materials for NYMTC website administrators and users;
- 2) Hints and Tips on How-to's and hints embedded directly into the backend user interface where appropriate; and
- 3) Training materials for NYMTC staff that includes the creation and implementation of content governance compliant page copy.

The Consultant must present and provide to the NYMTC Project Manager and NYS ITS:

- 1) An Operating Procedures Manual that documents all additional or changed functionality from a base Drupal install;
- 2) Code comments following Drupal documentation standards for all custom code;
- 3) Commit messages and pull-request descriptions accompanying all deployment requests; and
- 4) A Technical Runbook that documents all connections, processes, and other dependencies beyond the standard platform.

Task 7: Deployment and Launch

The Consultant must provide a well-defined Deployment and Launch Plan approved by NYMTC and NYS ITS. It must also include rollback and restore procedures.

Any scripts necessary for implementing the new websites must be developed or supplied by the Consultant. All code deployments must be automated.

The Consultant must then fully deploy the new sites in accordance with the approved Deployment Plan.

Deliverables:

- 1) Deployment and Launch Plan
- 2) Fully deployed and functional website.

Task 8: Delivery of Product and Documentation

The Consultant must supply complete documentation on any component or configuration the Consultant developed during this project.

All materials, including but not limited to artifacts, rights to artwork and photographs, and source code created during and used within the project must be compiled and delivered to NYMTC and ITS at the time of final acceptance of the final websites. All materials used to create the website design must also be included (e.g., items made in Photoshop, Illustrator, wireframe source files, etc.).

All information and materials received hereunder by the Consultant from NYMTC are and shall remain the sole and exclusive property of NYMTC. The Consultant shall have no right, title, or interest in or to any such information or materials by virtue of their use or possession hereunder by the Consultant. All intellectual property created by the Consultant hereunder as a product or as a service to NYMTC shall be the sole and exclusive property of NYMTC. The Consultant hereby transfers and assigns to NYMTC all proprietary and intellectual property rights in such property.

The Consultant conveys, assigns, and transfers to NYMTC the sole and exclusive rights, title, and interest in all documents, electronic databases, and custom programs, whether preliminary, final or otherwise, including all trademarks and copyrights. The Consultant hereby agrees to take all necessary and appropriate steps to ensure that the custom products are protected against unauthorized copying, reproduction, dissemination and marketing by or through the Consultant, its agents, employees, or subconsultants. Nothing herein shall preclude the Consultant from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under this Agreement in the course of the Consultant's business.

The Consultant grants to NYMTC a perpetual, nonexclusive, royalty-free, unlimited-use license to use, execute, reproduce, display, modify and distribute any pre-existing software, tools or techniques delivered by the Consultant under this Agreement.

Any written reports, opinions, and advice rendered by the Consultant shall become the sole and exclusive property of NYMTC, and the Consultant shall have no right, title, or interest in or to any such information or materials by virtue of their use or possession hereunder by the Consultant.

Deliverables:

- 1) Complete documentation on any component or configuration the Consultant developed during this project.
- 2) Complied package of materials used to develop the website

Task 9: Support and Maintenance

The Consultant will provide support and maintenance for the new website during the base term of the contract, including:

- 1) Immediate resolution of any production defects, code-based security vulnerabilities, project omissions, and website failures. Coordinate outage response with applicable parties and communicate regular resolution progress with NYMTC until failure is resolved;
- 2) Ongoing phone and email support from ~~8:00~~7:30 am to ~~6:00~~5:00 pm Eastern time for NYMTC and NYS ITS; and
- 3) Support and maintenance including:
 - a) Resolving stack configuration issues resulting from custom work, including caching and security;
 - b) Supporting CSS revisions, PHP script changes, theme customization, etc.;
 - c) Upgrading to all new releases of Drupal core and Drupal.org contributed modules;
 - d) Exploitable Security Updates must be applied within 24 hours of the bulletin's release;

- e) All Security Updates, regardless of mitigating circumstances, must be patched within 5 business days unless granted an exception;
- f) Consulting on version control for migrations across various environments, i.e., testing to Development to Production; and
- g) Advising on-site metrics software configuration.

Deliverables:

Ongoing support and maintenance are provided during the term of the base term contract.

Task 10: Additional Support and Enhancements

The support and maintenance period may be extended after the expiration of the initial Contract term. During the renewal term(s), the same level of support and maintenance are expected as indicated in Task 9., with an additional 800 hours per year for enhancements beyond standard support and maintenance.

Deliverables:

- 1) Ongoing support and maintenance are provided during the applicable renewal period.
- 2) Completion of enhancements as authorized by the NYMTC Project Manager.

State and Federal Requirements

The completed website must meet the requirements and standards listed below:

- [Advertisements, Endorsements and Sponsorships on State Entity Websites NYS-G24-002;](#)
- [NYS-P08-003 - Domain Names for State Government Agencies Standards;](#)
- [NYS Web Browser Development and Support Standards as outlined in ITS-S16-004;](#)
- [NYS CIO Office for Technology \(CIO-OFT\) IT Policy No. NYS-P08-005 –Accessibility of Information Communication Technology;](#)
- [Section 508 of the federal Rehabilitation Act of 1973 \(29 U.S.C. 794d\);](#)
- [Web Content Accessibility Guidelines](#) developed by the World Wide Web Consortium (W3C);
- [NYS-S05-001 New York State Universal Web Navigation;](#)
- [NYS-S14-007 Encryption ;](#)
- [Guidelines for Internet Privacy Policies as outlined in NYS-G02-001](#)

The Consultant will not be permitted to use, in any manner, NYMTC logos or any official mark of NYS without prior approval by NYMTC. NYMTC reserves the right, in its sole discretion, to withhold approval. If NYMTC approves such use, then any use of the logos or official marks shall strictly comply with the terms and conditions set forth by NYMTC.

ITS and NYS Digital Services Coordination Requirements

The Consultant will:

- 1) Coordinate with NYMTC, ITS, NYS Digital Services and be monitored by them to ensure compliance with NYS direction, policies, and project goals;
- 2) Compile and deliver all artifacts and source code created during the project to both NYMTC and NYS ITS at the end of the build phase and at the end of the term of the Contract. All materials used to

arrive at the website design will also be included (e.g. Photoshop, Illustrator, wireframe source files, multimedia files, etc.); and

- 3) Coordinate the methodology, toolset, and project plan with NYMTC and NYS ITS at the:
 - a) beginning of the project – to ensure global/enterprise alignment;
 - b) completion of each major phase;
 - c) beginning and end of each development sprint; and
 - d) completion of the project – to provide retrospective feedback.

Project Assumptions

It is assumed that the following insurance coverage will be required for this agreement:

Coverage Type	Applicable
1. Workers' Compensation and Disability	YES
2. Commercial General Liability (CGL)	YES
3. Special Protective and Highway Liability (OCP)	NO
4. Commercial Automobile including liability and required coverage for New York	YES
5. Umbrella or Excess Liability	YES
6. Professional Liability/ Errors and Omissions	YES
7. Railroad Protective Liability ^{1, 3}	NO
8. Marine Protection & Indemnity ^{2, 3}	NO

NOTES:

1. Consultants are not able to obtain this coverage without knowing the affected railroad(s). Consultant may not be able to obtain Railroad Protective insurance until after the consultant contract is executed and Rail permits are obtained.
2. Marine insurance is provided by the entity that owns the watercraft and is specific to the vessel to be used. Documentation is required to be provided when use of the vessel is necessary. Vessel may be provided by prime, subconsultant, or subcontractor. A firm's Commercial General Liability policy does not provide the required coverage unless (a) the consultant provides coverage form CG 00 01 04 13, and (b) the vessel is owned and operated by the Prime Consultant, and (c) the vessel is used as a rescue skiff (i.e. not for hire), and (d) the vessel is less than 26 feet in length. If the vessel is provided by a subcontractor, insurance certificates and other documentation are typically not available until after the consultant's prime contract (with NYSDOT) is executed.

Working Over or Near Water. The Consultant shall protect workers from drowning in accordance with 29 CFR 1926.106 Working over or near water. Any worker who is exposed to the risk of drowning shall wear a U.S. Coast Guard approved personal flotation device (PFD) at all times. A risk of drowning shall be considered to exist where a worker has the possibility of falling from above, or from an adjacent slope, into water depths that exceed 5 feet, or into water depths subject to sudden fluctuations to a depth exceeding 5 feet. A risk of drowning may also exist where water depths as little as 2 feet are combined with swift currents, or where a fall into the water may result in a person being rendered unconscious or otherwise disabled. Working on top of ice shall be considered as working over water. When continuous fall protection is used, without exception, the drowning hazard has effectively been removed, and workers are not required to wear a PFD. When aerial lifts are used over or near water, the drowning hazard has not been removed, and occupants

of the lift are required to wear a PFD, regardless of whether a personal fall arrest system is used. When safety nets are used as fall protection, the drowning hazard has not been removed, and workers are required to wear a PFD. Workers shall not work alone in situations where a risk of drowning exists. There shall be an acceptable plan in place that enables a worker to be retrieved within 4 minutes from the time they entered the water. If greater hazards exist, including very cold water, rapids, or a wide channel, safeguards shall enable the worker to be retrieved before being overcome by that hazard, including multiple skiffs when warranted. A boat/skiff for emergency response shall be in place prior to the exposure. The boat/skiff shall be unlocked and available for immediate use. The boat/skiff for emergency rescue operations shall be equipped with a motor in good operation, paddles or oars, a ring buoy, and a reach extension device. The boat/skiff shall be equipped and operated in accordance with NYS Navigation Law. Ring buoys shall be provided. The height above the water shall be considered in determining the appropriate length of line attached, but in no case shall the line be less than 100 feet. The ring buoys shall be placed at appropriate intervals, but in no case shall the spacing be greater than 200 feet along the work site shoreline, work limits, and across the structure.

3. Proof of Railroad Protective Liability and Marine Protective & Indemnity Insurance will be required before work tasks requiring such coverage are set to begin.

Attachments 14-21: Project Specific Attachments

The following Attachments containing the RFP's Additional Project Specific Information can be found on the NYSDOT project web site, located at <https://www.dot.ny.gov/business> . Click on "Consulting Services", then click on "Opportunities", and then click on the date to the left of "**C04309 NYMTC Website Redesign to Drupal Platform**".

Attachment 14 – Proposer Question Template

Attachment 15 – Cost Proposal Workbook

Attachment 16 – Staffing Table/Level of Effort

Attachment 17 – RFP Modifications, [if applicable](#)

Attachment 18 – NYS Information Technology Services (ITS) Requirements

Attachment 19 – Ongoing System Support, Maintenance and Enhancement Requirements

Attachment 20 – ITS / DOT QA/QC and Release and Deployment Process

Attachment 21 – ITS-S20-001 Service Oriented Architecture

This information will also be available on the NYMTC project website at:

<https://www.nymtc.org/UTILITY-MENU/Doing-Business>