



CONTRACT #CBX001

**DESIGN-BUILD SERVICES FOR
METRO-NORTH RAILROAD
PENN STATION ACCESS PROJECT**

**VOLUME 0
INSTRUCTIONS TO PROPOSERS**

September 20, 2021

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SECTION I, PART 1 – OVERVIEW AND PROCEDURES

1.0 General

The Metropolitan Transportation Authority (“MTA”), by and through its agent MTA Construction and Development Company (“MTA C&D”), seeks Proposals to provide design-build services for the proposed Metro-North Railroad Penn Station Access Project (“Project”). The Design-Builder shall be responsible for all aspects of design, engineering, scheduling, coordination (with MTA C&D, Metro-North Railroad (“Metro-North”), Long Island Rail Road Company (“LIRR”), National Railroad Passenger Corporation (“Amtrak”), CSX Corporation (“CSX”), communities, utility companies and others), procurement of equipment and materials, construction and timely completion of the Project for a fixed Contract Price.

The Project will provide Metro-North customers with service into and out of Penn Station in New York by diverting some New Haven Line (“NHL”) trains via Amtrak’s Hell Gate Line (“HGL”). To this end, the Project will require the design and construction of additional passenger tracks, traction power substations, overhead contact systems, new interlockings, updated communication systems, and new signal systems within Amtrak’s HGL right of way, allowing Metro-North trains running on the NHL to go directly into Penn Station.

Mitigation of construction impacts on affected facilities, services and communities will be key to the success of the Project. Proposals should include innovative and effective impact-mitigation measures and a construction schedule that will achieve the shortest possible durations at individual locations and overall, striking an optimum balance of impact mitigation, schedule and price while also meeting all requirements of the Contract Documents. The successful Proposal will provide the best overall value, considering construction impacts, schedule, design, other technical factors and price, as further set forth below.

By Request for Qualifications (“RFQ”) dated October 25, 2019, MTA C&D sought Statements of Qualifications (“SOQs”) from qualified firms interested in designing and constructing the Project. The RFQ was the first step of a 2-step best value procurement process. Based on the SOQs submitted in response to the RFQ, MTA C&D established a shortlist of Respondents eligible to submit Proposals for the Project (“Shortlist”). The second step of this procurement involves the issuance of a Request for Proposals to enter into the contract to undertake and successfully complete the Project – including all engineering, design and construction services – as Design-Builder on or ahead of schedule for a fixed price while minimizing construction impacts. This contract (“Contract”) and work (“Work”) are defined further in the following documents that will comprise the RFP:

Volume 0:	Instructions to Proposers
Volume 1:	Design-Build Agreement
Volume 2:	General Provisions
Volume 3:	Technical Provisions
Volume 4:	Utility Requirements
Volume 5:	Technical Specifications
Volume 6:	NOT USED
Volume 7:	Contract Drawings
Volume 8:	Leggett Interlocking
Volume 9:	Standard Specifications
Volume 10:	Reference Documents

In advance of issuing the RFP, MTA C&D has issued draft Instructions to Proposers and other draft RFP documents to Proposers for review and discussion in order to: (i) provide Proposers with a full opportunity to develop schedules for the Work that will minimize impacts to Amtrak, CSX, Metro-North, LIRR and the community, and expedite completion of the Work; and (ii) allow Proposers to familiarize themselves fully with the Contract, the Work, and MTA C&D's requirements so that they will be able to submit timely and comprehensive Proposals. The draft documents were subject to continuing review by MTA C&D, Metro-North, Amtrak and others, and subject to further revision by MTA C&D prior to issuance of the RFP. One-on-One Meetings with Proposers have been conducted and Proposers' questions and Alternative Technical Concepts have been addressed as provided in these Instructions to Proposers. MTA C&D's schedule for these activities, and for issuance of the RFP, evaluation of Proposals, Contract award and Notice to Proceed, is set forth in Part 1, Section 3.0 below.

The draft RFP documents have been issued for discussion purposes only and do not reflect any final decisions with respect to any aspect of the Project. The procurement process for a Design-Builder to engineer, design and construct and install the Project is proceeding in parallel with an environmental assessment ("EA") of the Project under the National Environmental Policy Act.

No final decisions will be made on any aspect of the Project – and no contract will be awarded – until the conclusion of the environmental review process, issuance of the EA and findings statement, and MTA Board approval authorizing the award of the Contract.

Capitalized terms used in these Instructions to Proposers shall have the meanings assigned to them herein, in **Appendix 1.02A** to the General Provisions or elsewhere in the Contract Documents.

All Proposals shall be submitted to MTA C&D electronically by the applicable Proposal Deadlines as provided in the final version of these Instructions.

Please note that each Proposal must consist of three separate volumes: a Legal/Administrative Proposal and a Technical Proposal to be delivered by the first Proposal Deadline, and a Price Proposal to be delivered by the second Proposal Deadline, all as further described in Part 2, Section 4.0 of these Instructions.

Any Proposal received after the applicable Proposal Deadlines will not be accepted by MTA C&D. Proposers accept sole responsibility for the timely submission of their Proposals as provided in these Instructions. MTA C&D reserves the right to modify the Proposal Deadlines if considered necessary in MTA C&D's sole discretion.

2.0 Meetings

MTA C&D has scheduled One-on-One Meetings with each Proposer to obtain input on, and answer questions with respect to, the draft RFP documents. See Part 1, Section 3.0 for the anticipated timeframe for such One-on-One Meetings, and Section 25.0 for further discussion of the nature and purpose of such One-on-One Meetings.

3.0 Anticipated Procurement Schedule

Activity	Date
Shortlist Announced	February 11, 2020
Draft RFP Documents to Proposers	February 21, 2020
Addendum 1	June 26, 2020
Addendum 2	April 27, 2021
Addendum 3	May 25, 2021
Addendum 4	May 27, 2021
Addendum 5	June 15, 2021
Addendum 6	June 21, 2021
One-on-One Meetings with Proposers, Submission and Review of ATCs, Submission of Proposer questions regarding draft RFP Documents and MTA C&D Responses	Start week of June 28, 2021
<i>Phasing and Staging + Proposer Agenda Items</i>	<i>Week of June 28, 2021</i>
<i>Schedule + Proposer Agenda Items</i>	<i>Week of July 12, 2021</i>
Addendum 7	July 14, 2021
Addendum 8	July 15, 2021
Addendum 9	July 16, 2021
Addendum 10	July 21, 2021
Addendum 10R1	July 22, 2021
Addendum 11	July 22, 2021
Addendum 12	July 27, 2021
<i>Contract Provisions + Proposer Agenda Items</i>	<i>Week of July 26, 2021</i>
Project Site Tour	July 29, 2021
Addendum 13	July 29, 2021
Addendum 14	August 12, 2021
<i>To Be Determined</i>	<i>Week of August 9, 2021</i>
Addendum 15	August 12, 2021
Addendum 16	August 12, 2021
Addendum 17	August 19, 2021
Addendum 18	August 20, 2021
Addendum 19	August 20, 2021
<i>Van Nest Substation, New Rochelle Yard, Leggett Interlocking + Proposer Agenda Items</i>	<i>Week of August 23, 2021</i>
Addendum 20	August 24, 2021
<i>To Be Determined</i>	<i>Week of September 6, 2021</i>
ATC Submission Deadline	August 30, 2021
Addendum 21	September 3, 2021
Addendum 22	September 7, 2021
Proposer Question Submission Deadline	September 7, 2021
Final Day for One-on-One Meetings	September 10, 2021
Addendum 23	September 10, 2021

Addendum 24	September 13, 2021
Addendum 25	September 13, 2021
Addendum 26	September 13, 2021
Addendum 27	September 13, 2021
Addendum 27	September 13, 2021
Addendum 28	September 13, 2021
Addendum 29	September 14, 2021
Addendum 30	September 14, 2021
Addendum 31	September 15, 2021
Addendum 32	September 17, 2021
Addendum 33	September 20, 2021
Final RFP Issued to Proposers	September 20, 2021
Proposer Question Submission Deadline to Final RFP	September 27, 2021
Legal/Administrative Proposal Deadline	October 25, 2021 noon
Technical Proposal Deadline	October 25, 2021, noon
Price Proposal Deadline	November 1, 2021, noon
Presentations and Interviews (if required)	<i>To Be Determined</i>
Selection of Design-Builder, Board Approval, Contract Execution and Notice to Proceed	December 31, 2021

All dates set forth in the preceding table and in these Instructions to Proposers are subject to change at MTA C&D's sole discretion. To the extent that dates are changed, MTA C&D shall notify the Proposers by Addendum.

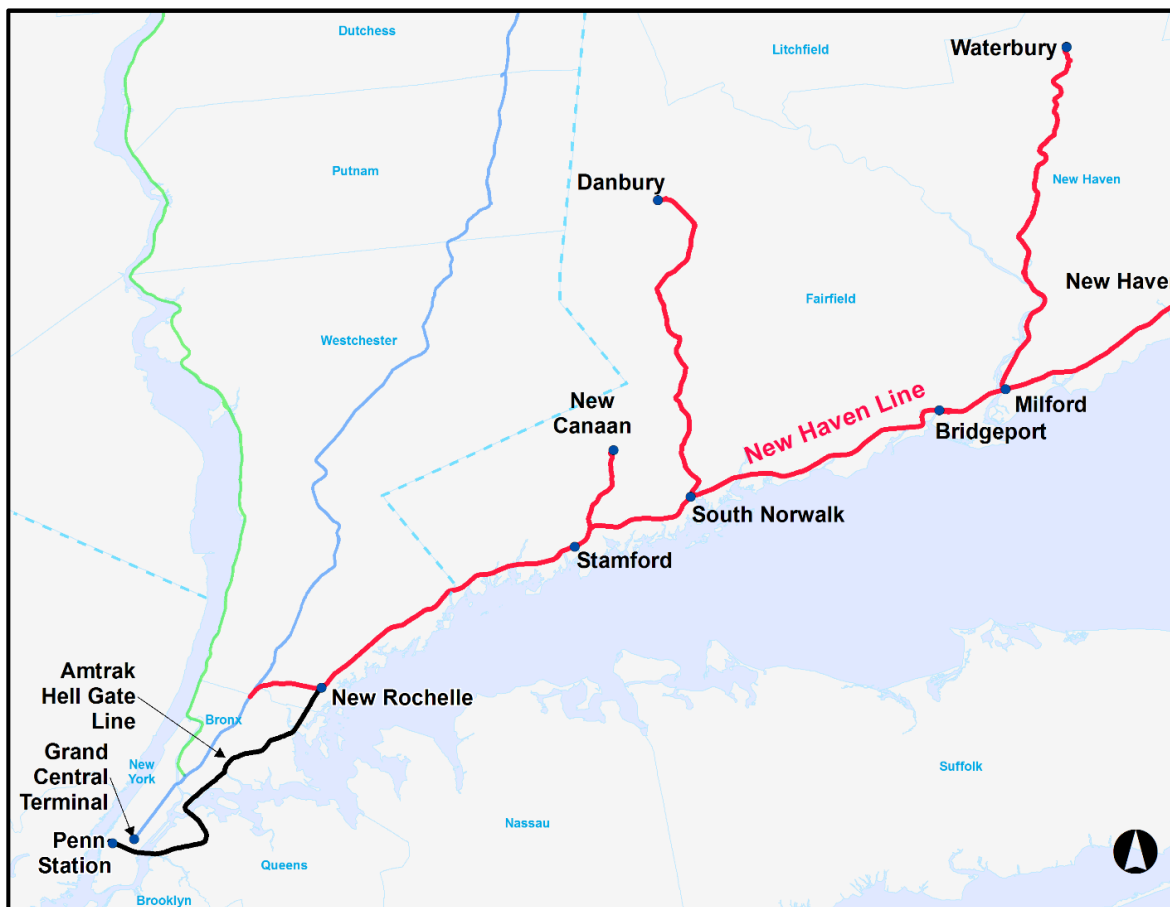
4.0 Requests for Clarification and Addenda

- A. Prior to submission of a Proposal, a prospective Proposer should examine all documents carefully and submit in writing any requests for an interpretation or correction of any ambiguity, inconsistency or error therein. To be given consideration any such request must be in writing and addressed to MTA C&D's Contracting Officer (Attention: Everett McIndoe) by email at Everett.McIndoe@mtacd.org **no later than 5:00 PM on September 27, 2021**. A Proposer's failure to request a clarification, interpretation, or correction will preclude such Proposer from thereafter claiming any ambiguity, inconsistency or error.
- B. Any interpretation, correction, amendment, or additional provisions MTA C&D may decide to include in the Contract will be issued in writing as an Addendum by MTA C&D's Contracting Officer or his or her designee prior to award of the Contract. Only a written interpretation or correction issued as an Addendum by MTA C&D shall be binding. All Addenda shall be binding upon issuance. Proposers must complete **Schedule IV, Addenda Acknowledgment**, with respect to all Addenda to the RFP and submit this Acknowledgment as part of their Proposals in order for their Proposals to be considered responsive.

5.0 Project Location and Purpose

The Project will be implemented within the State of New York with service beginning in southeastern Westchester County, where NHL trains will divert onto the HGL. Service will then lead into the eastern Bronx, western Queens, and then into Manhattan. Four new Bronx stations will be constructed in the eastern Bronx. The Project location, showing the relationship between the HGL and the Metro-North system, is depicted in Figure 1.

Figure 1: Project Location



The Project is a key element of Governor Kathy Hochul’s transportation initiatives and is a strategic component of a comprehensive plan to transform and expand New York’s vital regional transportation infrastructure and to enhance the economy, environment and future of the northeast section of the Bronx. Metro-North operates three main lines east of the Hudson River – the Hudson line, the Harlem line and the New Haven line. While each of these lines currently provides Metro-North customers service to Grand Central Terminal (“GCT”) on Manhattan’s East Side, none currently provides service to Pennsylvania Station (“Penn Station”) on Manhattan’s West Side.

In addition to providing a new service option for its customers, these additional tracks will also enhance Metro-North’s network resiliency, support faster recovery efforts and facilitate its ability to maintain acceptable levels of service when faced with planned and unplanned service disruptions, severe weather events and other emergency situations. The Project will also include the design and construction of four new Metro-North stations along the HGL in the eastern Bronx. These stations will bring increased regional accessibility to the eastern Bronx community by offering rail service to

and from Manhattan and the New York and Connecticut suburbs. In addition, the stations will provide area residents with better access to jobs, shopping and entertainment.

6.0 Key Project Elements

Current key elements of the Project are depicted in Figure 2 and are currently expected to include:

- a. Realigning existing tracks and constructing two new passenger tracks along an approximate six-mile segment of the HGL.
- b. Rehabilitation and upgrading of existing drainage systems.
- c. Relocating and reconfiguring existing interlockings and constructing new interlockings, including Leggett Interlocking. Leggett Interlocking includes all work at Penn Station Central Control, as well as work at Gate Interlocking to allow Leggett to be fully operational.
- d. Realigning and removing existing freight tracks and constructing new freight tracks.
- e. Realigning existing catenary for existing tracks and interlockings and installing new catenary for the new tracks and interlockings.
- f. Constructing four new Metro-North passenger stations.
- g. Replacing or rehabilitating all or most of the existing superstructure of the Bronxdale Avenue and Pelham Lane and Eastchester Road undergrade bridges.
- h. Repairing and strengthening the existing bridge spans and constructing a new span at the Bronx River Bridge.
- i. Constructing a new Amtrak Van Nest AC supply substation immediately adjacent to the HGL right-of-way.
- j. Upgrading AC distribution substations at Bowery Bay and New Rochelle.
- k. Constructing a new AC distribution substation at Co-op City.
- l. Constructing a new AC supply substation at Oak Point.
- m. Expanding and improving Metro-North's New Rochelle Yard in Westchester County and electrifying certain tracks for Project train storage.
- n. Providing traction power supply for Metro-North M8 equipment by installing approximately three miles of third rail and constructing two new DC substations in Queens County.
- o. Upgrading to a high-density signal system with positive train control overlay between Harold Interlocking in Queens County and Shell Interlocking in Westchester County.
- p. Installing new signal systems.
- q. Installing a new control desk/station/software at the Penn Station Dispatch Center (CETC).
- r. Updating and installing new communications systems.
- s. Relocating and installing utilities.
- t. Constructing retaining walls and sound attenuation barriers.
- u. Fully complying with the Institute for Sustainable Infrastructure's Envision v3 for the entire Project.

Proposals are to include the following modifications to key elements of the Project, which are shown in Volume 3 (Technical Provisions), Part 1 (Scope) and Part 3B (DB Requirements) but are not shown in Volume 7 (Contract Drawings):

- Reduction of the Station Platform Lengths from 10 cars to 8 cars
- Elimination of the Backup Generators at the Stations
- Relocation of Amtrak Van Nest AC supply substation immediately adjacent to the HGL right-of-way
- Addition of Parkchester/Van Nest Station Secondary Entrance
- Addition of Morris Park Station Relocated North Entrance

Figure 2: Penn Access Project Key Project Elements



7.0 Alternative Technical Concepts

A. ATC Process

The Alternative Technical Concept (“ATC”) process allows a Proposer to submit for approval, on a confidential basis, proposed alternatives to the requirements of the Contract Documents except that ATCs may not include alternatives to requirements set forth in the Instructions to Proposers, the Design-Build Agreement or the General Provisions. ATCs proposing alternatives to requirements set forth in Division 1- General Requirements must be proposed as potential alternates to be included in a Proposal together with proposed

price or schedule reductions if accepted by MTA C&D (each such potential alternate a “Proposal Alternate”). Prior to submission of an ATC, Proposers may, but are not required to, present their ATC concepts to MTA C&D by communicating with the Contracting Officer.

B. Review of ATCs by MTA C&D

All ATCs shall be submitted in writing, using a form substantially similar to the ATC Form annexed hereto at Appendix D, to the MTA C&D’s Contracting Officer, with a cover letter clearly identifying the submittal as an ATC. If the Proposer does not clearly designate its submittal as an ATC, the submittal may not be treated as an ATC by MTA C&D.

In accordance with the schedule set forth in Section 3.0 of these Instructions to Proposers, MTA C&D will review and respond, on a confidential basis, to initial ATCs prior to final ATC submittals. MTA C&D’s response to an initial ATC will identify any additional information required by MTA C&D to determine whether the ATC can be approved, conditionally approved, approved for submission as a Proposal Alternate or not approved.

MTA C&D will use best efforts to provide a response to initial and final ATCs prior to issuance of the RFP, subject to extension by MTA C&D. Proposers submitting multiple ATCs should indicate an order of priority to assist MTA C&D in determining which ATCs should be reviewed first.

If an ATC is approved, MTA C&D will inform the Proposer that its ATC appears to be generally acceptable subject to all requirements of the RFP and the Contract Documents and any conditions stated in the approval.

MTA C&D will not approve any ATC that entails a deviation from the requirements of the as-issued Contract Documents unless it determines, in its sole discretion, that the proposed end product based on the deviation is equal to or better than the end product absent the deviation. An ATC that potentially conflicts with any Environmental Approvals may be approved conditionally.

Any ATC that has been approved may be included in the Proposal, subject to any conditions set forth in the approval. The Proposer will be responsible for satisfying any such conditions prior to implementation of the ATC.

C. Contents of an ATC Submittal

Each ATC submittal shall include the following:

1. Description: A detailed description and drawings of the configuration of the ATC or other appropriate descriptive information.
2. Usage: A detailed description of where and how the ATC would be used on the Project.
3. Deviations: References to any requirements of the draft RFP documents that are inconsistent with the proposed ATC, an explanation of the nature of the proposed deviation and a request for: (a) approval of such deviations; or (b) a determination that the ATC is consistent with applicable requirements.

4. Analysis: An analysis justifying use of the ATC and why the deviations from the requirements of the draft RFP documents, if any, should be allowed.

5. Impacts: Discussion of potential impacts of the ATCs on residents, Metro-North, Amtrak and LIRR service, force account requirements, vehicular traffic, environmental impacts (favorable and unfavorable) identified in appropriate environmental documents (especially with regard to the impacts and commitments of the EA), community impacts and safety.

6. Environmental Approvals: A discussion of what, if any, changes in the compliance terms, best management practices and avoidance measures identified in the EA or any Environmental Approval would be required as a result of the ATC, and whether the ATC would require any deviation from the terms and conditions of any permit or of any anticipated or existing Environmental Approval or new Environmental Approval. If so, the ATC submittal must provide: an analysis of the steps required; costs involved and time that would be required to obtain approvals; the likelihood of success in obtaining the required approvals from the appropriate Governmental Agencies; and an analysis of all potential impacts on the Project.

7. History: A detailed description of other projects where the solution proposed in the ATC has been used under comparable circumstances, if any; the success of such usage; and names, email addresses and contact telephone numbers of project owners that can confirm such statements.

8. Risks: A description of any added or reduced risks to MTA C&D and other persons associated with implementing the ATC.

9. Schedule Impacts: An estimate of the impacts of the ATC on the Contract duration, whether longer or shorter, and schedule, including the Proposer's estimate of the likely durations for any permits and consents necessary for the ATC.

10. Price: An estimate of the impact (whether greater or smaller) of the ATC on the Proposal Price; and on the life-cycle costs including the impact on ongoing operations, maintenance, and repair.

11. Property Requirements: A list of additional property requirements, if any, and a description of when additional properties would be required in order to implement the ATC.

D. Submission of an ATC Submittal

Each ATC submittal must have been submitted to MTA C&D's Contracting Officer on the ATC Form, electronically (via e-mail) with final ATCs submitted no later than August 30, 2021.

Each electronic submittal shall be marked "Metro-North Railroad Penn Access Project – ATC Submittal" plus the sequential number of the Proposer's ATC (i.e., 1, 2, 3 etc.), and the Proposer's name. Any subsequent communications about an ATC should cite the relevant sequential ATC submittal number.

E. Determination by MTA C&D

MTA C&D will make one of the following determinations with respect to each properly submitted final ATC:

1. The ATC is approved;
2. The ATC is not approved;
3. The ATC is conditionally approved subject to satisfaction, in MTA C&D's sole judgment, of specified conditions; or
4. The submittal does not qualify as an ATC but may be included in the Proposal (i.e. the concept will comply with the RFP requirements).

Any approval of an ATC constitutes a change in the specific requirements of the Contract Documents incorporated in the ATC if and to the extent: (i) specified in such approval; and (ii) the Proposer is awarded the Contract, except that an ATC submitted as a Proposal Alternate constitutes a change in such requirements only if it is accepted by MTA C&D upon award of the Contract. Should the Design-Builder be unable to meet the conditions of approval of any ATC incorporated into the Contract Documents, or if the concept otherwise proves to be infeasible, the Design-Builder shall conform to the original requirements of the Contract Documents.

Each Proposer, by submitting its Proposal, acknowledges that the opportunity to submit ATCs was offered to all Proposers and waives any right to object to MTA C&D's determinations regarding the acceptability of ATCs.

F. Incorporation into Proposals

A Proposer may incorporate none, one or more pre-approved ATCs into its Proposal, including conditionally approved ATCs. The Proposer will be responsible for satisfying any conditions set forth in the approval of an ATC prior to implementation of the ATC and for obtaining all third-party approvals required for implementation of an ATC.

Copies of MTA C&D's ATC approval letters for each incorporated ATC must be included in the Proposal.

Proposals with or without ATCs will be evaluated against the same technical evaluation factors.

The Contract Price, schedule, approach and other details set forth in the Proposal must reflect any incorporated ATCs, except that such information must be submitted without incorporation of any Proposal Alternate and any Proposal Alternate must be included in the Proposal separately, to be incorporated into the Contract if accepted by MTA C&D. Except for incorporating approved ATCs or submitting Proposal Alternates, the Proposal may not otherwise contain exceptions to or deviations from the requirements of the Contract Documents. Any exceptions, deviations or qualifications may cause rejection of a Proposal.

G. Confidentiality during the Proposal Period

ATCs properly submitted by a Proposer and all subsequent communications regarding its ATCs will be considered confidential during the Proposal period and until award of the Contract. If a Proposer wishes to make any announcement or disclosure to third parties concerning any ATC, it shall first notify MTA C&D in writing of its intent to take such action, including details as to date and participants, and obtain MTA C&D's prior approval to do so. The foregoing shall not preclude MTA C&D from modifying the RFP Documents as necessary to comply with applicable law or to account for information obtained by MTA C&D outside of the ATC.

H. Acceptance of the Stipend

In consideration for paying the stipend and executing the Stipend Agreement, the Proposer agrees that MTA C&D may use any ideas or information contained in the Proposal, including ATCs, in connection with the Project or in connection with a subsequent project without any obligation to pay any additional compensation.

8.0 Period of Performance

The Design-Builder will be required to meet the time requirements for performance and completion of the Work set forth in the Design-Build Agreement and will be liable for liquidated damages as provided in the Design-Build Agreement for failing to meet these requirements. Each Proposer must include a proposed maximum duration from Notice to Proceed to Substantial Completion of all Work, which shall be no longer than sixty (60) months. The proposed duration will be weighed heavily in evaluations of Proposals.

9.0 Environmental Assessment

Environmental Assessment findings applicable to the Project are included as part of the requirements contained within the Contract Documents, including but not limited to Volume 3 and Volume 11. The final Environmental Assessment ("EA") for the Project is available at <http://pennstationaccess.info>. The Proposal must not be contrary to or in conflict with the EA and findings for the Project.

10.0 Contract Requirements

The successful Proposer shall be required to comply with, among other provisions, the following Contract requirements:

A. Security for Performance of the Work

As a condition of the Notice to Proceed, the successful Proposer will be required to provide bonds as set forth in the General Provisions, as a means of securing payments and as security for the faithful performance of the Contract. Sureties must be approved by MTA C&D. Each bond executed by the Proposer and by a surety or sureties approved by MTA C&D shall be effective from the date of execution of the Contract to the date of Final Completion of the Contract. Prior to award, the Proposer must provide satisfactory evidence to MTA C&D that the Proposer will be able to provide the required bonds.

Proposers failing to supply documents as to their ability to obtain the required bonds will not be considered for this Project.

B. Insurance Requirements

As a condition of the Notice to Proceed and prior to commencement of any Work, the successful Proposer shall submit proof of the insurance coverage required in the Contract. Certificates of Insurance, in a form acceptable to MTA C&D, shall be provided by the successful Proposer as evidence of insurance. The Insurance Requirements for this Contract and a form of a certificate of insurance are set forth in the General Provisions Appendix 10.05.

The Proposer shall submit with its Proposal a letter from an insurance company or companies with its Proposal that satisfactorily establishes to MTA C&D that such insurance company or companies will issue the necessary insurance policies, or evidence of existing policies, as required in the Insurance Requirements for this Contract. Proposers failing to supply documents as to their ability to obtain the required insurance will not be considered for this Project.

C. Affirmative Action

Proposers will be required to comply with all applicable Equal Employment Opportunity laws and regulations. Proposers shall submit with their Proposal a copy of the completed EEO-1 Form annexed hereto as **Schedule II**, detailing the Proposer's workforce composition.

11.0 Proposal Requirements

A. Proposers: A Proposer must be one of the RFQ Respondents included on the Shortlist. No change in legal structure or team composition will be permitted unless the Proposer receives written approval from MTA C&D, which approval may be granted or withheld in MTA C&D's discretion. Requests for changes must be made to the Contracting Officer in writing no later than thirty (30) calendar days prior to the first due date for submittal of Proposals in response to the RFP. Proposals must include all information and documents required by these Instructions to Proposers, except that a Proposer is not required to re-submit any document previously submitted with the Proposer's SOQ if there has been no change in the information set forth in the document and the document has not been amended and the Proposer submits the applicable Certificate(s) of No Change, annexed hereto at Schedule XXXII and Schedule XXXIII, signed by an authorized representative of the Proposer certifying that there has been no change in such information as of the date of the Certificate.

B. While MTA C&D reserves the right to withhold its approval of any change in legal structure or team composition in its discretion, MTA C&D expects that it will base its decision as to granting or withholding approval of a proposed change on whether the proposed change would:

- i. render the Proposer materially different from or less qualified than the Proposer originally selected as a short-listed Respondent;

- ii. result in any actual or potential organizational conflict of interest;
- iii. cause the Proposer to be in violation of another provision of this RFP; and/or
- iv. any other factors that MTA C&D considers relevant or material.

Each Proposal should clearly identify the firm submitting the Proposal. Where the Proposer is a Joint Venture, the Proposal should clearly identify the business entities that constitute the Joint Venture. Where information is sought with respect to the “Proposer”, the Proposal must cover each Joint Venture participant. Joint Venture Proposals must include a copy of the Joint Venture Agreement unless the Joint Venture Agreement was submitted with the Proposer’s SOQ and the Proposer submits a Certificate of No Change with respect to the Joint Venture Agreement.

C. Proposal Format: All Proposers are required to submit Proposals that follow the format outlined below.

1. Proposals must be prepared and submitted in three **separate volumes**:

Volume One – Legal/Administrative Proposal*

Volume Two – Technical Proposal*

Volume Three – Price Proposal

***Please note that no price information should be included in the Legal/Administrative Proposal or the Technical Proposal.**

2. The filename of the Proposal must be clearly labeled as follows:

[Proposer Name] – [Legal-Administrative/Technical/Price] Proposal for RFP CBX001
[Submission Date]

Confidential information must be labeled “Confidential” as provided in Section 16.0.

3. At least two (2) business days before the first Proposal Deadline, each Proposer shall send an email to the Contracting Officer with its identified contact who will be submitting the Proposal electronically on behalf of the Proposer.
4. Writing style should be concise and straightforward. Lengthy narratives containing extraneous information are discouraged. Proposers are encouraged to minimize total page count. Unnecessary elaborate brochures and other presentations beyond that sufficient to present a complete, precise, and effective Proposal are not desired.

D. Proposal Submission

1. Proposals will be submitted electronically through Microsoft OneDrive. A link will be provided to Proposers to submit Proposals to a specific folder.
2. Proposer shall upload one (1) signed original of each volume of its Proposal as one (1) PDF file. All files must be in searchable format with no file protection or password protection applied. All pages must be numbered in each Volume except for pre-printed materials such as third-party letters, MTA C&D Forms and Schedules, and financial

statements. Pages shall be on 8.5” by 11” layouts, except charts, exhibits, and other illustrative and graphical information, which may be on 11” x 17” layouts, or as otherwise specified in the RFP.

3. Proposers shall ensure that each file is clearly labeled and properly identified in accordance with the RFP requirements.
4. Electronic signatures shall be deemed original signatures and shall have the same legal and binding effect as an original signature.
5. MTA C&D has implemented a digital Document Repository, which may be accessed via a link on the My MTA Portal at www.mymta.info.

a. The Proposer and all Major Participants, and, where specifically indicated, proposed Subcontractors shall complete and submit the following Schedules to the Document Repository prior to submission of the Proposal. Copies of these Schedules are included with the RFP for reference only. The Schedules should be accessed and completed electronically on the Document Repository web site. In addition, Schedules on the Document Repository are identified by letter rather than Roman numeral. Accordingly, the corresponding letter identifier for each Schedule is included parenthetically below for ease of reference:

- i. Schedule II (Schedule Z on Document Repository): EEO-1 Forms;
- ii. Schedule VI (Schedule B on Document Repository): Contractor Responsibility Form (for proposed Subcontractors with Subcontracts (A) valued at \$1,000,000 or more and more than 10% of the prime contract value; (B) valued at \$5,000,000 or more; or (C) for Special Circumstances Subcontracts valued at \$100,000 or more);
- iii. Schedule VII (Schedule C on Document Repository): NYS Certification of Restrictions on Lobbying;
- iv. Schedule X (Schedule S on Document Repository): Iran Divestment Act Certification;
- v. Schedule XIII (Schedule A on Document Repository): Federal Certification of Restrictions on Lobbying;
- vi. Schedule XIV (Schedule F on Document Repository): Proposed Subcontractor Questionnaire Execution, Verification and Acknowledgment (for all proposed Subcontractors);
- vii. Schedule XV (Schedule Q on Document Repository): Executive Order 177 Certification;
- viii. Schedule XVI (Schedule T on Document Repository): Diversity Practices Questionnaire; and
- ix. Schedule XVII (Schedule X on Document Repository): Drug & Alcohol Certifications.

b. If the Proposer or any Major Participants or Subcontractors have previously submitted any of the above Schedules and the information therein remains current and accurate, the Proposer, Major Participants and/or Subcontractors do not need to resubmit such documentation. Instead, the Proposer or Major Participants shall submit with the Proposal a complete “Prime Contractor Certification of No Change” and/or the

Subcontractor shall submit with the Proposal a complete “Subcontractor Certification of No Change, certifying that the documentation previously submitted is current and accurate.

c. The following Schedules must also be completed and submitted with the Proposal by the Proposer and all Major Participants and, where specifically indicated, proposed Subcontractors:

- i. Schedule III: NY Omnibus Procurement Act Form;
- ii. Schedule IV: Acknowledgment of Addenda;
- iii. Schedule V: Joint Venture Agreement;
- iv. Schedule VI-A: Contract-Specific Responsibility Form (for Subcontractors required to submit Schedule VI);
- v. Schedule VIII: MTA Vendor Code of Ethics Certification;
- vi. Schedule IX: Vendor Assurance of No Conflict of Interest or Detrimental Effect;
- vii. Schedule XI: Proposer’s Acknowledgment;
- viii. Schedule XII: Proposer’s Signature and Certification of Authority;
- ix. Schedule XIV-A: Contract-Specific Subcontractor Questionnaire (for Subcontractors not required to submit Schedule VI and VI-A);
- x. Schedule XIX: Past Project Descriptions;
- xi. Schedule XX: Past Project Performance;
- xii. Schedule XXI: Awards, Citations and/or Commendations;
- xiii. Schedule XXII: Safety Questionnaire;
- xiv. Schedule XXIII: Workload Disclosure Form;
- xv. Schedule XXIV: NY State Subcontractors and Suppliers;
- xvi. Schedule XXV: DBE Forms;
- xvii. Schedule XXVI: Prime Contractor Certification of No Change; and
- xviii. Schedule XXVII: Subcontractor Certification of No Change.

d. If the Proposer is or will be a Joint Venture and does not currently have an Employment Identification Number (Tax ID), then all Major Participants shall submit the above documentation to the Document Repository. If the Proposer is or will be a Joint Venture and has an Employment Identification Number but does not have an MTA Portal Supplier ID, the Proposer shall create a new Supplier ID for the Joint Venture and submit all of the above documentation.

6. Redacted Version of Proposal for FOIL Purposes

a. If a Proposer intends to submit a FOIL version of its Proposal, it shall upload an electronic file of the Proposal, separate from the submissions set forth above, in which confidential information, if any, has been redacted for FOIL purposes in accordance with Section 16. The redacted Proposal shall be identified as Volume Four of the Proposal in the file name. The deadline to submit a redacted version shall be the same as the deadline for each applicable Proposal.

- b. Proposers shall implement redactions of confidential information so as to retain the same pagination (page breaks) as in their original Proposals.
 - c. The redacted proposal shall include a Confidential Contents Index as the first page.
 - d. Each file for the redacted Proposal shall state “Redacted Proposal for FOIL Purposes.”
7. All Proposals must conform to the specific requirements of the Technical Provisions, Technical Specifications and other technical requirements as set forth in the Contract Documents, except as provided in approved ATCs. MTA C&D will only consider Proposal deviations during the pre-Proposal phase, pursuant to ATC submittals or written questions. If MTA C&D deems a proposed deviation acceptable, an ATC approval or revised Contract Document will be issued. MTA C&D will not consider any alternate Proposals that deviate from the Technical Provisions and Technical Specifications and other technical requirements of the Contract Documents (and approved ATCs and Contract Addendum(s), if applicable) except as so provided; and any such Proposal may be rejected from further consideration in the sole discretion of MTA C&D. A Proposer may not propose deviations that conflict with the Technical Provisions, Technical Specifications or other Contract Documents, Railroad operational requirements, the EA and Environmental Approvals or state and federal laws, regulations or codes, except as permitted in Section 7.0 of these Instructions to Proposers (Alternate Technical Concepts).
8. Proposers shall pay close attention to and strictly follow all instructions set forth in the RFP. Proposals will be analyzed for conformance therewith. Proposals that do not comply with these Instructions and do not include the required information may be rejected as insufficient or non-responsive and deemed to be outside the competitive range. MTA C&D reserves the right to request that a Proposer provide any missing or additional information and to make clarifications and/or corrections. MTA C&D may consider informal any Proposal not prepared and submitted in accordance with provisions of the RFP and reserves the right to waive any and all informalities or to reject any and all Proposals.
9. Each Proposer is advised that the provisions of the New York State Tax Law provide **an exemption from sales and compensating use taxes** on all tangible property (materials, equipment and components) sold to the Design-Builder or its subcontractors in connection with the Work that will become an integral component part of the Work. No amount shall be included in a Proposer’s Proposal for any such sales or compensating use taxes.
10. The Proposer must hold its **Proposal open for a period of one-hundred-eighty (180) calendar days** from the date the Price Proposal or any best and final offer (“BAFO”) is submitted to MTA C&D, whichever is later, for award of the Contract.
11. MTA C&D reserves the right to (i) reject any or all Proposals submitted; (ii) accept any Proposal as submitted without negotiation; (iii) require revisions to, corrections of, or other changes to any Proposal submitted as a condition to its being given any further consideration; (iv) select for negotiations only the overall best value Proposal within the competitive range, as determined by MTA C&D; (v) negotiate with those Proposers whose acceptable Proposals fall within the competitive range; (vi) negotiate with one

or more Proposers in any manner it deems fit (such negotiations may be concurrent or sequential as MTA C&D determines); (vii) following the conclusion of any negotiations with more than one Proposer, issue a revised RFP or portion thereof containing, among other things, any matter, offer, condition or enhancement elicited from or proposed or suggested by any Proposer during the course of such negotiations, and solicit BAFOs from such Proposers, or solicit offers utilizing another appropriate procedure; (viii) after receipt of any BAFOs if it is in the interest of MTA C&D to do so, thereafter reopen negotiations; or (ix) accept improvements to, enhancements of or other revisions to any Proposal at any time if it deems such to be in its best interest. MTA C&D reserves the right to reject from consideration any Proposals which MTA C&D considers to be excessive, deviate unreasonably from the internal estimate, or is otherwise disproportionate with other Price Proposals. No Proposer shall have any rights against MTA C&D arising at any stage of the solicitation from any negotiations that take place, or from the fact that MTA C&D does not select a Proposer for negotiation.

12. Submission of a Proposal will signify that the Proposer has read and agrees to the provisions and requirements set forth in the Contract Documents, except such conditions, exceptions, reservations or understandings explicitly, fully, and separately stated in writing included with the Proposal. Any such conditions, exceptions, reservations or understandings, which do not result in the rejection of the Proposal, are subject to evaluation by MTA C&D.
13. All correspondence regarding the RFP and Proposal shall be in the English language. If any original documents required for the Proposal are in any other language, the Proposer shall provide an English translation, which shall take precedence in the event of conflict with the original language.
14. All correspondence regarding the RFP and Proposal, and all original documents in the Proposal, shall use US customary units (i.e., feet, inches, tons, etc.).

12.0 Responsibility

- A. The Proposer is required to demonstrate in its Proposal and by submission of all required information that it is a responsible contractor. In that regard, a Proposer must demonstrate to the satisfaction of MTA C&D that it has the integrity, skill, experience, necessary facilities, financial capability and stability to successfully and faithfully perform the Contract in accordance with the Contract Documents. In providing such information to MTA C&D, the Proposer shall complete and submit to MTA C&D the annexed **Schedule VI, Contractor Responsibility Data Form** and **Schedule VI, Contract-Specific Responsibility Form**. Proposers proposing as joint ventures or otherwise comprised of more than one firm shall submit a Contractor Responsibility Data Form for each firm. MTA C&D reserves the right to request, in its sole discretion, additional information from the Proposer necessary to make a responsibility determination. Any Proposer that MTA C&D determines is not responsible shall have its Proposal rejected.
- B. It is incumbent upon Proposers to provide data in sufficient detail to allow MTA C&D to adequately perform its responsibility determination. If a Proposer cannot submit the requisite information necessary to enable MTA C&D to render a responsibility determination, a Proposer may be determined to be not responsible.

- C. Proposers must also submit a Contractor Responsibility Data Form for each proposed Subcontractor(s) and Supplier(s) supplying design and or construction or surveying services and all Subcontractors and Suppliers with proposed subcontracts or supply orders for labor or labor and materials with an aggregate value exceeding \$1 million to enable MTA C&D to perform a responsibility review of proposed Subcontractors and Suppliers. These forms must be included in the Legal/Administrative Proposal for Major Participants and may be included in the Price Proposal for other Subcontractors and Suppliers.
- D. Should any firms proposed by a Proposer as Subcontractor or Supplier be found to be unacceptable subsequent to MTA C&D's review and evaluation of Proposals, the Proposer will be notified accordingly. MTA C&D reserves the right to, and generally does, afford Proposers the opportunity to propose acceptable substitutes as part of their Proposals. In the event that the successful Proposer identifies a Subcontractor or Supplier after award of the Contract, the successful Proposer bears the risk that such Subcontractor or Supplier may be rejected pursuant to a responsibility review, or for other grounds as will be set forth in the Contract Documents.
- E. MTA C&D reserves the right to reevaluate its responsibility determination(s) at any time during this procurement. Proposers are required to update, correct, and/or supplement any vital and relevant information previously submitted to MTA C&D in connection with this procurement up to and including the time of award. Failure of a Proposer to update or correct information relating to its responsibility, or the responsibility of any of its Subcontractors or Suppliers, may result in the Proposer being found not responsible and ineligible for award of the Contract.
- F. A Proposer that does not prove to the satisfaction of MTA C&D that it is responsible will be eliminated from further consideration. If a Proposer who has been deemed responsible is later determined prior to award to be not responsible due to inaccurate submissions, new information or otherwise, MTA C&D reserves the right to render such Proposer ineligible for an award.

12.1 Diversity Practices

- A. Proposers are informed that MTA C&D, in accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000d and §2000e, Section 303 of the Age Discrimination Act of 1975, as amended, 42 USC §6102, Section 202 of the Americans with Disabilities Act of 1990, 42 USC §12132, the Federal Transit Law at 49 USC §5332, 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 issued pursuant to such Act, will affirmatively ensure that the Proposers will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age or disability in regard to any contract entered into pursuant to this RFP, and has established a Disadvantaged Business Enterprise ("DBE") Program that the Design-Build Contract will be subject to the provisions thereof.
- B. It is the policy of the MTA and its subsidiaries that DBEs, as defined in 49 CFR, Part 26, shall have the maximum practicable opportunity to participate in the performance of the Design-Build Contract. Each Proposer shall agree to take all necessary and reasonable steps to ensure

that DBEs have the opportunity to compete for and perform Work for the Design-Build Contract.

- C. The Design-Build Contract includes the following DBE Participation Goal: DBE: **22.5%**.
- D. Proposers shall submit Schedule XXXI, DBE Forms, with their **PRICE** Proposal demonstrating their DBE participation meets the DBE Participation Goal. In the event that a Proposer's proposed level of DBE participation is less than the DBE Participation Goal, the Proposer must satisfy the good faith efforts requirements in subparagraph E below to be eligible for Contract award. Only Proposers who meet the DBE Participation Goal or who satisfactorily demonstrate good faith efforts to meet the DBE Participation Goal will be eligible for award of the Contracts. A Proposer's failure to make good faith efforts to satisfy the DBE goal or to make good faith efforts shall constitute a default by the Proposer of its obligation under the Proposal. Such a default may result in a forfeiture of the stipend or other security as provided in the Proposal, in addition to any other available remedy.
- E. Demonstration of Good Faith Efforts. To demonstrate a good faith effort to meet the DBE goal, a Proposer shall submit with its Schedule XXXI, a list of the steps it has taken to obtain DBE participation, together with documentation supporting those steps. Such efforts may be demonstrated by showing the following:
1. That the Proposer attended any pre-solicitation meetings that were scheduled by MTA C&D to inform DBEs of contracting and subcontracting opportunities;
 2. That the Proposer advertised in general circulation, trade association, and minority-focus media, at least 15 Days before the Proposal Due Date, to request DBE subcontract performance on the specific project;
 3. That the Proposer provided written notice to a reasonable number of specific DBEs that their interest in the contract was being solicited, in sufficient time to allow the DBEs to participate effectively;
 4. That the Proposer followed up initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested in participating in the project;
 5. That the Proposer selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goal (including where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);
 6. That the Proposer provided interested DBEs with adequate information about the plans, specifications and requirements of the Contract; and
 7. That the Proposer negotiated in good faith with interested DBEs, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities. Documented efforts of negotiations with DBEs must include at a minimum:
 - a. The names, addresses and telephone numbers of DBEs that were considered;
 - b. A description of the information provided to DBEs regarding the plans and specifications for portions of the Work to be performed;

- c. A statement explaining why agreements with the DBEs could not be reached.
 - d. That the Proposer made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance required by the MTA Agency or Design-Builder;
 - e. That the Proposer made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services; and
 - f. That the Proposer effectively used the services of available minority/women community organizations; minority/women Design-Builder's groups; local, state and federal minority/women business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBEs.
- F. Reconsideration of Good Faith Efforts Determination. In determining whether a Proposer has demonstrated good faith efforts, the MTA Department of Diversity and Civil Rights will look at all efforts that the Proposer has made. If the MTA Department of Diversity and Civil Rights determines that Proposer has failed to make good faith efforts to meet the DBE Goal, the MTA Department of Diversity and Civil Rights will provide the Proposer an opportunity for administrative reconsideration. As part of this reconsideration, the Proposer will have the opportunity to provide written documentation or argument and to meet with a designated MTA representative concerning the issue of whether it met the DBE Goal or made adequate good faith efforts to do so. A written decision will be sent to the Proposer explaining the basis for finding that the Proposer did or did not meet the goal or make adequate good faith efforts to do so.
- G. The MTA Department of Diversity and Civil Rights is responsible for determining a Proposer's compliance with the DBE requirements for the Design-Build Contract.
- H. Any business seeking to participate as a DBE on this Contract must be certified by the MTA Department of Diversity and Civil Rights or a NYSUCP Certifying Partner at the time the Proposer submits its Proposal. If a business is not certified, it must complete a NYSUCP DBE Certification Application, which may be obtained from the MTA Department of Diversity and Civil Rights. Certification of a business as a DBE by the MTA Department of Diversity and Civil Rights or a NYSUCP Certifying Partner means only that the business meets the DBE requirements set forth in 49 C.F.R. Part 26 and does not constitute a representation or warranty by the MTA that the business is qualified to perform the portion of the work required by its contractual arrangement with the Proposer. Prior to Contract award, after and during the performance of a Contract, the MTA reserves the right to re-evaluate the DBE status of previously certified businesses.
- I. Proposers may review a copy of the MTA's DBE Program and obtain a copy of a current list of certified DBE firms from the MTA Department of Diversity and Civil Rights by calling (646) 252-1378. The NYSUCP Directory may also be accessed on the Internet at <https://nysucp.newnycontracts.com>.
- J. Agreements between a Proposer and a DBE firm in which the DBE firm agrees not to provide subcontracting quotations to any other potential Respondents are prohibited.

13.0 Evaluation Criteria for Proposal

MTA C&D will evaluate the Legal/Administrative Proposal on a pass/fail basis for compliance with the Proposal submittal requirements, which are set forth in Part 2 Section 4.0 of these Instructions to Proposers under Volume I: Legal/Administrative.

MTA C&D shall evaluate the Technical Proposal based on the following criteria which are listed below in their relative degree of importance.

1. Project Design:

Identification of the Proposer's technical solutions and Project design and understanding of the overall scope of the Work.

2. Schedule and Construction Impact Mitigation:

A clear, well-developed and detailed critical path method schedule for performing and completing the Work within the shortest duration from the Notice to Proceed to Substantial Completion, and the Proposer's plans for mitigating construction impacts to Railroad operations and surrounding communities. These include plans for force account support, noise, vibration, air quality, site maintenance, waste control, visual distractions, night and weekend work, utility work and other aspects of the Work, and also including specifics for implementation of the proposed schedule and mitigation measures and coordination with local authorities, utilities, community groups and other interested parties. Schedules shall be submitted in a current version of Primavera P6 scheduling software (XER).

3. Management Approach:

A proposed Project team that meets or exceeds the requirements of these Instructions to Proposers in all respects, and a demonstrated management plan and ability to function as an effective design-build team to design and construct the Project in accordance with all requirements of the Contract Documents. Evaluation will include consideration of the qualifications of proposed Key Personnel and Subcontractors, their experience working together and as part of a design-build team and the Proposer's planned organizational structure, policies and systems for Contract compliance, communication, coordination, tracking of performance, record-keeping, reporting, dispute avoidance and emergency response. The proposed Project team's past performance on MTA and other public contracts will also be evaluated. Evaluation also will include review of the Proposer's proposed Safety team, Quality Management team, Independent Construction Quality Control firm, proposed approaches to system and construction safety, quality approach, environmental compliance and mitigation, proposed approach to managing coordination with the Railroads and proposed third party and utility owner coordination and management for compliance with Contract requirements and effectiveness.

4. Financial Strength:

Demonstrated capability and stability sufficient to undertake the financial responsibilities associated with the Project, including bonding capacity and the capability to effectively manage the scheduled cash flow as well as any unanticipated cash flow needs of the Project.

5. Diversity Practices:

The Proposer will be evaluated on its plans to meet the DBE Participation Goal for the Design-Build Contract and its past compliance with subcontracting provisions for DBEs/MWBEs.

6. Other Relevant Matters:

The Proposer will be evaluated on all matters deemed relevant by MTA C&D, in its sole discretion, including issues that might be raised after the release of the RFP and overall adherence to the requirements of the RFP.

Key questions that will be addressed in applying certain of these Evaluation Criteria are set forth in **Schedule I**.

Adjectival ratings will be assigned to these Evaluation Criteria as follows:

EXCEPTIONAL: The Proposal is considered to exceed significantly the RFP objectives/requirements and indicates a consistently outstanding level of quality and responsiveness. There are essentially no weaknesses.

GOOD: The Proposal is considered to exceed the RFP objectives/requirements and offers a generally better than acceptable level of quality and responsiveness. Any weaknesses are minor.

ACCEPTABLE: The Proposal is considered to meet the RFP objectives/requirements and offers an acceptable level of quality. Weaknesses can be corrected.

MARGINAL: The Proposal does not meet the RFP objectives/requirements in significant respects. Weaknesses or deficiencies may be correctable.

UNACCEPTABLE: The Proposal contains fundamental weaknesses and/or deficiencies and/or an unacceptable level of quality and/or does not meet the RFP objectives/requirements. Weaknesses or deficiencies are not considered correctable.

A Proposal that receives a rating of UNACCEPTABLE in one or more Evaluation Criteria will receive an overall Proposal rating of UNACCEPTABLE and will not be eligible for Contract award.

After review and evaluation of the Legal/Administrative and Technical Proposals, MTA C&D will review Price Proposals and perform an assessment of the price and technical evaluation and select the Proposer that has offered the most advantageous (best value) Proposal, including any Proposal Alternates that MTA C&D determines to accept, as determined in the sole discretion of MTA C&D. Price and technical evaluation will be given approximately equal weight in performing this assessment.

14.0 Contract Award

MTA C&D anticipates the award of a single Contract to the successful Proposer whose Proposal, including any Proposal Alternates that MTA C&D determines to accept, represents the best value to MTA C&D.

15.0 Confidentiality of RFP Information and Non-Disclosure Agreements

All documents and information provided by MTA C&D to Proposers in connection with this RFP, including draft RFP documents, are confidential whether or not marked as “confidential.”

Proposers will be required to execute the MTA C&D Non-Disclosure and Confidentiality Agreement (“MTA C&D NDA”) annexed hereto as **Appendix B** in connection with their receipt of MTA C&D’s documents and information in the RFP process. The MTA C&D NDA prohibits Proposers from disclosing certain confidential, proprietary, and/or security-sensitive data and information of MTA C&D.

The successful Proposer will also be required to agree to observe and abide certain additional requirements of MTA C&D’s Chief Security Officer with respect to the protection and safeguarding of security-sensitive information, and the preservation of site security at the Project work site.

Proposers also will be required to execute the Amtrak Non-Disclosure and Confidentiality Agreement (“Amtrak NDA”) annexed hereto as **Appendix C** in connection with their receipt of Amtrak’s documents and information in the RFP process. The Amtrak NDA prohibits Proposers from disclosing certain confidential, proprietary and/or security sensitive data and information of Amtrak.

16.0 Confidentiality of Proposal Information

The Proposer should specifically indicate which information in its Proposal is designated as proprietary and is for evaluation purposes only and not to be disclosed. Care will be exercised in treating such information as confidential, subject to award of the Contract to that Proposer, and to any laws and regulations including but not limited to the New York State Freedom of Information Law. MTA C&D reserves the right to use suggestions and ideas contained in any Proposal without obligation to the Proposer, if not selected.

17.0 Incurring Costs

MTA C&D will not be liable for any pre-Contract activity or cost incurred by the Proposers in the preparation of their Proposals or during any negotiations on BAFOs or proposed contracts or for any work performed by Proposers in connection herewith except for the payment of a stipend, subject to the conditions for the payment of such stipend as set out in this Instructions to Proposers document.

18.0 Proposal Stipend

MTA C&D has decided that the payment of stipends, under certain conditions, is proper as a part of this procurement.

In order to qualify to receive a stipend, the Proposer’s Proposal must:

- (1) achieve a “pass” rating on all pass/fail Evaluation Factors;
- (2) meet or exceed the minimum qualifying quality based evaluation threshold as required in the RFP;
- (3) include a detailed construction schedule that meets or exceeds the RFP requirements;
- (4) be competitive and reasonable; and
- (5) not be awarded the Contract by MTA C&D.

Proposers that do not meet the above criteria shall have no claim to a stipend or compensation in any form based upon any legal or equitable theory.

Stipend-eligible Proposers must execute the Stipend Agreement annexed hereto as **Appendix A**, as it may be modified by MTA C&D, no later than twenty (20) calendar days after award of the Contract or, if no award is made before expiration of the Proposal irrevocability period set forth in the RFP (as it may be extended), then no later than twenty (20) calendar days after expiration of such period. Extensions of time to execute the Stipend Agreement may be granted at the sole discretion of MTA C&D. Any stipend-eligible Proposer that fails to execute the Stipend Agreement will forfeit all rights to receipt of a stipend.

No Proposer will be eligible for payment of any stipend if the Proposer has filed an unsuccessful protest of the procurement process, award, or cancellation of the procurement. In addition, as a condition of accepting payment of any stipend, the Proposer shall agree to not file any protest of the procurement process, award, or cancellation of the procurement after accepting payment of the stipend.

In consideration for paying the stipend and executing the Stipend Agreement, MTA C&D may use any ideas or information contained in the Proposal, including ATCs, in connection with the Project or in connection with a subsequent project without any obligation to pay any additional compensation to any Proposer that accepts the stipend.

If MTA C&D does not award a Contract in connection with the Project to any of the Proposers, then MTA C&D shall award the stipend to each stipend-eligible Proposer that executes the Stipend Agreement and meets all applicable requirements for payment of the stipend.

Subject to the requirements and limitations set forth in the Stipend Agreement, MTA C&D shall pay to a stipend-eligible Proposer, and the stipend-eligible Proposer agrees to accept as full compensation for its Work Product, a stipend of \$1,500,000.00.

All of the Proposer's team members and prospective Subcontractors and Vendors shall be bound by the same provisions of the Stipend Agreement as the Proposer. All agreements between the Proposer, Proposer's team members, and/or prospective Subcontractors and Vendors shall include provisions effectuating this term, and all such agreements shall be subject to review by MTA C&D.

The terms of the Stipend Agreement to be executed by a stipend-eligible Proposer and MTA C&D may be modified via Addenda from the Stipend Agreement included in **Appendix A**. Note that the Stipend Agreement is NOT to be submitted with the Proposer's Proposal. It is included in **Appendix A** for informational purposes only. The final version of the Stipend Agreement will be transmitted to the Proposers meeting the eligibility requirements stated in this Section after the final Deadline for Proposal submissions.

19.0 Post-Employment Restriction on Former Employees

Proposers are reminded that the State Ethics in Government Act, specifically, Public Officers Law Section 73(8), prohibits former employees from working as consultants or contractors or as employees to consultants or contractors on MTA C&D's projects for a period of two (2) years from his or her separation from MTA C&D employment. In addition, a former employee is permanently barred from working on any matter with which that employee was directly involved while a MTA C&D employee.

If a Proposer plans to include a former MTA C&D employee as a member of the Project team in its Proposal, that former employee should contact the State Ethics Commission, (518) 432-8207 or (800) 87ETHICS or 39 Columbia Street, Albany, NY 12207, to determine whether the post-employment restrictions referenced above would bar the former employee's work on the Project. For any former employee proposed for the Project, MTA C&D requires a statement that his/her employment on the Project is not prohibited by the Ethics in Government Act. Any such statements should be included in the Proposer's Technical Proposal.

20.0 Protest Procedure

Proposers are advised that MTA C&D has written protest procedures to handle and resolve disputes relating to their procurements. A protest of any contemplated or actual award by a Proposer shall be submitted in accordance with the latest issue of MTA C&D's Protest Procedure, a copy of which may be obtained upon written request to the Procurement Officer. All protests must be in writing.

21.0 Point of Contact

Proposers are reminded that pursuant to Sections 139-j and 139-k of New York State Finance Law, all contacts (defined as oral, written or electronic communications with MTA C&D intended to influence a procurement) during this procurement must be made with MTA C&D's designated Point of Contact only. The Point of Contact for this procurement is Everett McIndoe, who can be reached at 646-252-6393 or by email at Everett.McIndoe@mtacd.org.

22.0 Conflict of Interest

The requirements of 23 CFR 636.116 will be applied to this procurement and the Proposer is responsible for being aware of these requirements and complying with them, including full disclosure of all potential organizational conflicts of interest on the annexed Disclosure Form For Potential Conflicts Of Interest. (See Schedule IX).

The following consultants that performed services for the Project on behalf of MTA C&D, and any affiliates of parent companies, are precluded from joining a Proposer team:

- The Calladium Group
- HNTB New York Engineering and Architecture, P.C.
- WSP USA, Inc.

In addition, any firm that is rendered ineligible through any Federal, State or other state debarment, and any firm with a current contract to perform work on another MTA project but is not in good standing and satisfactorily progressing the work on such project, is ineligible to participate on any Design-Build team.

By submitting its Proposal, each Proposer agrees that, if a Conflict of Interest is thereafter discovered, the Proposer shall make an immediate and full written disclosure to MTA C&D that includes a description of the action that the Proposer has taken or proposes to take to avoid or mitigate such conflicts. If a Conflict of Interest is determined to exist, MTA C&D may, at its sole discretion, cancel the Contract. If the Proposer was aware of a Conflict of Interest prior to the award of the Contract and did not disclose the conflict to MTA C&D until after award of the Contract, MTA C&D may terminate the Contract for default.

23.0 Changes to Proposer's Financial Position or Ownership

Proposers shall promptly notify MTA C&D of:

- A. Any material adverse change in the financial position (including business, assets, financial condition, credit rating and/or surety bonding capacity) of any Major Participant that was not reflected in and/or differs from its SOQ submission (inclusive of any subsequently required or approved modifications or additions to the Major Participants described therein).
- B. Any direct or indirect transfer of legal or beneficial ownership, or issuance, of the shares (or equivalent ownership interests) of any Major Participant, following the date of its SOQ submission, that (i) is equal to or greater than 20% of the total shares; or (ii) results in ownership of 20% or more of the total shares by an entity that held less than such amount as of the date of such SOQ submission.

Any such notification must be made by the Proposer to the MTA C&D's Procurement Officer in a notarized writing promptly upon the occurrence of any such change and, in any event, not later than seven (7) calendar days thereafter.

Irrespective of whether the Proposer provides notice, MTA C&D may, in its sole discretion:

- if the Proposer still meets the RFP pass/fail criteria, accept any such change; or
- if the Proposer does not meet the RFP pass/fail criteria, does not provide substantially the same or superior strength as demonstrated in the Proposer's SOQ submission (inclusive of any subsequently required or approved modifications or additions to the Major Participants described therein), or is unable to avoid any Conflict of Interest arising from any changes in ownership, then: (i) require mitigating changes to the Proposer's organization, or (ii) disqualify the Proposer.

24.0 One-on-One Meetings

Prior to and after submission of Proposals, MTA C&D may conduct One-on-One Meetings with Proposers. If One-on-One Meetings are held, they will be held with each Proposer. MTA C&D will not disclose to other Proposers any information pertaining to an individual Proposer's technical concepts, Proposal or ATCs prior to the Contract award.

A. Meetings During Proposal Period

For each Proposer, One-on-One Meetings will be held between MTA C&D and the Proposer. The period indicated in Section 3.0 for these meetings is provisional. Specific meeting dates will be confirmed in advance of each meeting by MTA C&D to each Proposer.

At least seven (7) days prior to any One-on-One Meeting the Proposer may submit proposed agenda items.

Each Proposer that is interested in submitting an ATC may request one or more additional One-on-One Meeting(s) with MTA C&D to discuss general concepts for potential ATCs and obtain preliminary feedback from MTA C&D. MTA C&D may also schedule One-on-One Meetings with any Proposer that has submitted an ATC to allow MTA C&D to fully understand the ATC and to request clarifications.

MTA C&D may, in its sole discretion, issue one or more Addenda to address any issues raised in the One-on-One Meetings.

B. Post-Proposal Discussions

MTA C&D reserves the right to enter into discussions and request revised Proposals. In that event, MTA C&D may engage in limited negotiations with the selected Proposer prior to Contract award regarding such matters as are deemed advisable for negotiations by MTA C&D.

C. Statements at Meetings

Nothing stated at any meeting will modify the draft RFP documents unless incorporated into the RFP by Addendum, or in the case of an ATC, approved in writing by MTA C&D.

25.0 Interview

As part of the evaluation process the following interviews may be requested:

A. Technical Interview

A technical interview may be required to clarify elements of the Proposal. Proposers would be given a minimum of two (2) days' notice of this interview.

B. Leadership Team Interview

An interview of the Proposer's leadership team may be required as part of the evaluation process. The intent of the interview would be to facilitate further assessment of the quality of the leadership proposed including determination of (1) ability to lead and deliver the Project on time and on budget, (2) ability to work with MTA C&D, the Railroads and local communities and minimize any construction impacts, (3) justification of proposed approach to the Project and (4) ability to represent the Project to the public. Only those identified as Key Personnel in the Proposal would be allowed to participate. The Proposer would be given a minimum of seven (7) days' notice of this interview. Assessment of performance at these interviews may be used in evaluating the Proposal.

SECTION I, PART 2– SUBMITTAL REQUIREMENTS

1.0 The Proposer

The Proposer shall be identified in a cover page affixed to each volume of the Proposal stating:

CONTRACT #CBX001

Design-Build Services for Metro-North Railroad Penn Station Access Project

The below noted firm, hereinafter referred to as the Proposer,

(Insert full legal name, including State of incorporation, if any)

submits this Proposal to MTA C&D in response to the Request for Proposals for the above captioned contract.

The Proposer represents that it has carefully examined the Contract Documents and has reviewed its Proposal and other required information, and is supplying herewith all completed Schedules and other Proposal data, as required.

The Proposer represents that all costs for royalties on copyrights and patents that may be involved in its performance of the Work are included in the proposed Contract Price, and are to be paid by the successful Proposer.

2.0 Proposal Deadlines

The Deadlines for Legal/Administrative Proposals, Technical Proposals, and Price Proposals are to be determined.

3.0 The Proposal

The Proposal shall be prepared and presented in three (3) **separate volumes**: Volume One – Legal/Administrative Proposal, Volume Two – Technical Proposal, and Volume Three – Price Proposal.

4.0 Detailed Submittal Requirements

The Proposal shall contain the specific contents set forth below for each volume. There is no page limit for each volume, but there are page limits for certain content items. MTA C&D will furnish editable versions of forms to Proposers.

Section	Title	Submittal Contents
VOLUME 1: LEGAL/ADMINISTRATIVE		
1.1	Proposal Affidavit	Provision of a properly completed and executed Proposer's Acknowledgment (see Schedule XI).
1.2	Licenses	Provision of evidence that the Persons proposed to carry out engineering, design, architecture, landscape architecture and surveying

Section	Title	Submittal Contents
		within the State hold appropriate licenses or that they have the capability to obtain licensure prior to execution of Contract.
1.3	Legal Capacity	The organizational documents consisting of formation certificates, by-laws and design licenses shall show that the Proposer has legal capacity to undertake design and construction of the Project.
Volume 1 – Legal/Administrative Forms – Submit Completed Forms – See Schedules II-XVIII and XXXXL-XXXIII.		

VOLUME 2: TECHNICAL		
Volume 2 - Package 1: Management Approach		
Objectives:		
<ol style="list-style-type: none"> 1) To explain the Proposer’s organization, participants and experience 2) To identify the approach that the Proposer intends to oversee and manage execution of the Work. 3) To explain the decision making processes, leadership capability, roles and responsibilities, and staff experience, and demonstrate that timely and effective decisions can be made 4) To demonstrate the Proposer’s commitment to safety, quality, environmental compliance and communities and to MTA C&D 5) To demonstrate the Proposer’s execution capability, and integration of construction and design 6) To demonstrate the Proposer’s ability to deliver the Project on time and on budget 		
1.1	Team and Experience	<ol style="list-style-type: none"> 1) Provide a narrative describing the qualifications, accreditations, and experience of the Proposer and its team members including specific experience relevant to the nature, size, complexity, and composition of the Proposer’s proposed design and the Proposer’s proposed means and methods of construction. This shall include, but not be limited to, relevant experience of the Proposer’s team in design-build, environmental permitting and quality compliance, rail work, Amtrak overhead contact system work, highway and bridge structures, reconstruction, innovative designs, complex structures, methods and materials, construction in close proximity to communities, and construction in environmentally sensitive areas, as well as any other experience relevant to significant aspects of the Proposer’s Proposal. 2) Provide a list of sub-consultants or subcontractors, if any (including design professionals), to be employed in the Work and a description of the function(s) each sub-consultant or subcontractor will perform. 3) Provide a separate summary of the background and experience of each Major Participant. Summaries shall be a maximum of 2 pages for each firm; the format is at the discretion of the Proposer. Include examples of innovative design or construction, logistics and other solutions implemented on other projects to reduce cost, time, or impact. 4) Using Schedule XIX (Form E-1) <i>Past Project Description</i>, provide no more than 15 project descriptions. At least 2 past project descriptions shall be provided for each Major Participant and shall highlight experience in the last 10 years relevant to the Project. Describe those projects having a scope comparable to that

Section	Title	Submittal Contents
		anticipated for the Project. Attach the Form E-1 to the respective firm's background and experience summary.
1.2	Organization	<p>1) The Proposer shall provide an organization chart (formatted on 11"x17" layout) and narrative, illustrating the organization of the <u>firms</u> comprising the Proposer's team involved, and the Proposer's <u>Key Personnel</u> and their prospective roles and responsibilities as well as other principal participants and any known subcontractors having a material role in the Project's design and construction. The organization charts shall be titled "Proposed DB Firm Organization", "Proposed Design Organization", and "Proposed Construction Organization", respectively.</p> <p>The Proposed Design Organization chart shall illustrate the proposed design organization, indicating the responsibilities and structure of the design staff, independent design check staff, down to and including discipline leads and the staff positions proposed in each discipline. The Proposer shall provide resumes for Key Personnel only as set out below.</p> <p>The Proposed Construction Organization chart shall illustrate the proposed construction organization, indicating the responsibilities and structure of the construction staff, down to and including field superintendents and the staff positions proposed under each field superintendent for all shifts. The Proposer shall provide resumes for Key Personnel only as set out below.</p> <p>2) The Proposer shall identify staff and firms (or potential firms if more than one firm is being considered) that will be responsible for each of the design and the construction of the following, including vendors and subcontractors:</p> <ul style="list-style-type: none"> a. Utilities and Railroad Utilities b. Station Structures c. Station Architecture d. Station Communications, MEP and Vertical Transportation e. Stations Civil and Landscaping f. Geotechnical g. Bridge Structures h. Track i. Overhead Contact Systems j. Traction Power k. Signals and Train Control l. Communications m. Security Systems n. Commissioning <p>3) The Proposer shall identify staff and firms (or potential firms if more than one firm is being considered) that will be responsible for each of the following functions including subcontractors:</p> <ul style="list-style-type: none"> a. Railroad Operations b. Permitting c. Environmental Compliance d. Lead and Asbestos Abatement e. System and Construction Safety f. System and Construction Security g. Project Controls including schedule and cost

Section	Title	Submittal Contents
		<ul style="list-style-type: none"> h. Public Information i. DB Quality and Special Inspections j. Independent Construction QC Firm k. Noise and Vibration Monitoring and Control l. Third Party Coordination m. Utility Coordination n. MPT o. Survey
1.3	Key Personnel	<p>1) Provide a record of commitment for Key and Other personnel indicating that all identified staff shall work full time and exclusively on this Project, either for the duration of the Project, or until their input is no longer required.</p> <p>2) Provide resumes for Key and Other Personnel (maximum four pages per person) for the following positions:</p> <p><u>Project Executive:</u> Shall be dedicated full time to the Project and must have the authority to represent, make decisions for, and oversee the performance of, the Design-Builder. It is preferred that the Project Executive has demonstrated a minimum of 20 years' experience in construction and management-of-construction for major rail transportation and infrastructure projects that included work of a similar scope, nature, and complexity as included in this Proposed Project and has design-build experience in excess of \$100 Million. It is preferred that this individual be licensed as a Professional Engineer in the State of New York.</p> <p><u>Project Manager:</u> Shall be dedicated full time to the Project and shall have a minimum of 20 years demonstrated experience in construction and management-of-construction for major rail transportation and infrastructure projects with similar size, type of work, and complexity as this Proposed Project, including projects with compressed timelines, and community information requirements. Such experience in construction and management-of-construction shall include at least one project involving commuter railroad construction with a value of at least \$100 Million and one project (which may be the same project) involving commuter railroad construction with a value of at least \$25 Million that involved construction, repair or replacement of Amtrak facilities and/or coordination with Amtrak. The Project Manager, who shall have design-build and extensive project management experience, can hold only this one Key Personnel position. It is preferred that this individual be licensed as a Professional Engineer in the State of New York.</p> <p><u>Design Manager:</u> Shall be dedicated full time to the Project, shall be an owner or employee of the Designer and shall have a minimum of 15 years demonstrated experience in managing design for multi-disciplinary infrastructure, rail and transportation projects of similar scope and complexity as this Proposed Project. The Design Manager shall have design-build experience and shall have served as the Design Manager or a substantially similar role on at least one (1) prior design-build project. The Design Manager shall also have specific experience with rail transportation design, including track and rail, bridges, signal, power and communications systems, earth</p>

Section	Title	Submittal Contents
		<p>retaining structures and drainage structures, on major projects of similar complexity and type. The Design Manager shall have an understanding of developing a design and staging plans which will allow MTA C&D to minimize operating impacts on mainline commuter railroads and regional railroads. The Design Manager shall also be familiar with Amtrak and MNR design standards. The Design Manager shall either be (x) licensed as a Professional Engineer in the State of New York; or (y) licensed as a Professional Engineer in another state or political subdivision of the United States and have filed an application for licensure in the State of New York in accordance with applicable law.</p> <p><u>General Superintendent:</u> Shall be dedicated full time to the Project and shall have a minimum of 15 years demonstrated construction experience in civil works projects with experience in managing the site work of large, complex rail and roadway construction projects including new track construction. Experience shall include work of the nature anticipated in the Proposed Project, and should include design-build contracts, public and community sensitivity, utility relocation, and maintenance of operations for rail, vehicular and pedestrian/commuter users. It is preferred that the individual proposed be licensed as a Professional Engineer in the State of New York.</p> <p><u>Quality Manager:</u> Shall be dedicated full time to the Project and shall have a minimum of ten (10) years of QA/QC experience on rail, transit, and design-build projects, and have undertaken training in the use and application of Quality Programs, including the application of ISO 9001:-2008. Experience shall include projects of similar type and complexity. The Quality Manager shall have a bachelor's degree or equivalent.</p> <p><u>Track, Third Rail, and Catenary Engineer:</u> Shall be dedicated full time to the Project and shall have a minimum of ten (10) years' experience in the design of tracks for Amtrak and the design of overrunning third rail systems and catenary systems. Respondents may propose to allocate the responsibilities of this position among up to three (3) individuals. Each individual shall have the minimum of (10) years' experience in the area(s) for which he or she is proposed and each shall constitute Key Personnel. It is preferred that the individual(s) proposed be licensed as Professional Engineers in the State of New York.</p> <p><u>Track Construction Superintendent:</u> Shall be dedicated full time to the Project and shall have a minimum of ten (10) years or equivalent construction experience constructing and/or maintaining main line railroad track, including five (5) years or equivalent experience in a Superintendent capacity; five (5) years' experience working on Amtrak track construction or maintenance projects and experience building concrete tie track is strongly preferred.</p> <p><u>Safety Manager:</u> Shall be dedicated full time to the Project and shall have a minimum of ten (10) years' experience or equivalent in a safety capacity. The Safety Manager shall be independent of the physical construction effort. The Safety</p>

Section	Title	Submittal Contents
		<p>Manager shall have specific experience on railroad projects and at least five (5) years' experience working on active railroads (including Amtrak). The Safety Manager shall also have experience as the head of safety on at least one (1) transit, commuter rail, or design-build project. The Safety Manager must have successfully completed the following safety trainings: (i) track safety for LIRR, MNR, and Amtrak; (ii) 40-hour NYC-Department of Buildings Site Safety Manager Course and license; and (iii) 30-hour OSHA Construction Safety and Health (29 CFR 1926) Course.</p> <p><u>Railroad Operation & Outage Coordinator:</u> Shall have a minimum of ten (10) years' experience developing construction work plans and track and power outage requests. Experience working in transportation supervision in the New York District on Amtrak and MNR is preferred. Demonstrated familiarity with Amtrak and MNR facilities and operations is required.</p> <p><u>NOTE: The Quality Manager and the Safety Manager shall not be the same person.</u></p> <p>3) Provide resumes of Other Personnel (maximum four pages per person) for the following positions:"</p> <p><u>Lead Construction Manager:</u> Shall be the individual responsible on a day-to-day basis for the activities of construction from the commencement of construction Work to Final Completion of the Project. Lead Construction Manager shall be located at the Project Site from NTP until no less than 2 months after Final Completion and will be available until all Design Work and Construction Work-related disputes and claims are resolved. The Lead Construction Manager shall have substantial demonstrated construction experience in civil works projects with experience in managing the site work of large, complex rail and roadway construction projects including new track construction. Experience shall include work of the nature anticipated in the Project, and shall include design-build contracts, public and community sensitivity, utility relocation, and maintenance of operations for rail, vehicular and pedestrian/commuter users. It is preferred, but not required, that this individual be licensed as a Professional Engineer in the State of New York.</p> <p><u>Area Construction Managers:</u> The Area Construction Managers shall be available on site as required to fulfill the requirements of the Contract. The Area Construction Managers shall have substantial demonstrated construction experience in civil works projects with experience in managing the site work of large, complex rail and roadway construction projects including new track construction. Experience shall include work of the nature anticipated in the Project, and shall include Design-Build contracts, public and community sensitivity, utility relocation, and maintenance of operations for rail, vehicular and pedestrian/commuter users. It is preferred, but not required, that these individuals be licensed as a Professional Engineer in the State of New York.</p> <p><u>Lead Utility Coordinator:</u> The Lead Utility Coordinator shall oversee and manage utility work performed by the Design-Builder, and shall manage design and construction coordination with Utility Owners and the Railroads. The Lead Utility Coordinator shall have</p>

Section	Title	Submittal Contents
		<p>substantial demonstrated experience in utility coordination including experience with work in close proximity to highly active electrified railroad tracks. It is preferred, but not required, that this individual be licensed as a Professional Engineer in the State of New York.</p> <p><u>Lead Structural Engineer:</u> The Lead Structural Engineer shall be responsible for design of structures. The Lead Structural Engineer shall be a licensed Professional Engineer registered in the State of New York and shall have substantial demonstrated experience in track and track structure design, retaining structures and drainage design, including experience with work in close proximity to highly active electrified railroad tracks.</p> <p><u>Lead Geotechnical Engineer:</u> The Lead Geotechnical Engineer shall be responsible for developing and leading a subsurface investigation program and the development of geotechnical design parameters. The Lead Geotechnical Engineer shall be a licensed Professional Engineer registered in the State of New York and shall have substantial demonstrated experience in foundation design and retaining structures with emphasis on track and retaining structures.</p> <p><u>Lead Bridge Engineer:</u> The Lead Bridge Engineer shall be responsible for bridge design. The Lead Bridge Engineer shall be a licensed Professional Engineer registered in the State of New York and shall have substantial demonstrated experience in bridge design including experience with work in close proximity to highly active electrified railroad tracks.</p> <p><u>Lead Track Engineer:</u> The Lead Track Engineer shall be responsible for track design. The Lead Track Engineer shall be a licensed Professional Engineer registered in the State of New York and shall have substantial demonstrated experience in track and track structure design with a sound understanding of the design interfaces with the signal design and of Railroads and AREMA track design standards.</p> <p><u>Lead Architect:</u> The Lead Architect shall be responsible for the design of all architectural components. The Lead Architect shall be a licensed Architect registered in the State of New York and shall have substantial demonstrated experience in transit or commuter rail based railroad architectural design, including the design of railroad station structures.</p> <p><u>Lead Electrical/Traction Power Engineer:</u> The Lead Electrical/Traction Power Engineer shall be responsible in power design. The Lead Electrical/Traction Power Engineer shall be a licensed Professional Engineer registered in the state of New York and shall have substantial demonstrated experience in designing traction power systems with emphasis on AC/DC power distribution, overhead contact systems and third-rail layout with a sound understanding of the track/signal interface for new track/interlocking construction.</p> <p><u>Lead Signal/Communications Engineer:</u> The Lead Signal/Communications Engineer shall be responsible for the signal and communications system design. The Lead Signal/Communication Engineer shall be a licensed Professional Engineer registered in the State of New York and shall have substantial demonstrated experience designing for construction of railroad signaling and communication systems that are similar in complexity and comparable in size with this Project. The emphasis of project experience shall involve AC and DC track circuits, Vital</p>

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		<p>Programmable Logic Controller (VPLC), Non-Vital Programmable Logic Controllers, Automatic Speed Control Testing, switch machines and controls, Backbone communication systems, Train mobile and Portable Voice Radio, PTC implementation and railroad based application systems and station based communication systems. The Lead Signal/Communications Engineer shall also have a full understanding of vital and non-vital hardware/software of railroad projects of comparable size and complexity and an understanding of railroad operations, block and aspect designs, software/hardware integration in testing, experience in cab signal design, Federal Railroad Administration (FRA) application process and developing cutover schemes to allow the Railroad to maintain its operations during construction of the new track.</p> <p><u>Systems Integration Engineer:</u> The Systems Integration Engineer shall be responsible for System Integrations design. The Systems Integration Engineer shall be a licensed Professional Engineer registered in the State of New York and shall have substantial demonstrated experience in design of system integrations on transit or commuter rail projects.</p> <p><u>Rail Operations Specialist:</u> The Rail Operations Specialist shall report directly to the Railroad Operation & Outage Coordinator and shall be responsible for scheduling and coordination of flagging for Project related single track and double track outages. The Rail Operations Specialist shall have substantial demonstrated experience in railroad scheduling and operations and scheduling of work that affects Railroads' operations including outages.</p> <p><u>Environmental Compliance Manager:</u> The Environmental Compliance Manager shall report directly to the Design-Builder's Project Manager and shall have the primary responsibility for ensuring that all of the Project's Environmental requirements are satisfied. Occupational Safety and Health Administration (OSHA) 40-Hour Hazardous Waste Site Operation (HAZWOPER) certification. The Environmental Compliance Manager shall have substantial demonstrated experience in the environmental permitting process, environmental design, and construction management and compliance on large, complex transportation or Railroad projects with complex environmental permitting requirements and commitments. This experience shall be in relation to federal permitting requirements and environmental regulatory agencies and shall also include experience of New York State permitting requirements.</p> <p><u>Deputy Safety Manager:</u> The Deputy Safety Manager shall report directly to the Design-Builder's Safety Manager and shall be available on the site for the duration of the Project. The Deputy Safety Manager shall be independent of the physical construction effort and shall have the authority to stop Work when unsafe conditions are present. The Safety Manager shall at a minimum have successfully completed the 30-hour OSHA course on Construction Safety and Health (29 CFR 1926). MTA C&D may accept other safety certifications or safety training in lieu of the foregoing. The Deputy Safety Manager shall have substantial demonstrated experience in the management of complex infrastructure projects and shall be familiar with FRA work zone safety regulations and OSHA regulations.</p> <p><u>Outreach Program Manager:</u> The Outreach Program Manager shall be responsible for the preparation and development of material</p>

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		<p>required for the ongoing public outreach program and notification during construction in conjunction with MTA C&D and Amtrak. The Outreach Program Manager shall have demonstrated experience managing and implementing public outreach programs for complex transit or commuter rail projects in a community environment.</p> <p><u>Business Entity Participation Program Manager:</u> The Business Entity Participation Program Manager shall be responsible for monitoring all Civil Rights Compliance requirements and achieving the DBE goals described in the Contract Documents. The Business Entity Participation Program Manager shall organize, implement, and direct a DBE program for the Design-Builder; consult with and advise on a wide variety of DBE and contract compliance issues; prepare and present concise, logical oral and written reports; interpret and apply applicable laws, policies, regulations and procedures; and establish and maintain cooperative working relationships with DBE associations and local community based organizations. The DBE Participation Program Manager shall have demonstrated experience implementing DBE and M/WBE Programs for complex public infrastructure projects.</p> <p>4) For the resume of each Key and Other Personnel include the following:</p> <ol style="list-style-type: none"> Identify three (3) reference projects with roles similar to that proposed Explain the role on each of the reference projects Provide contact details (name, address, email, telephone contact) for each referenced project Proposed role on the Project Relevant licenses and registrations Total years of professional experience and years of experience performing the work the individual would perform on this Project History of employment with project participant For Other Personnel only, percent time allocated/committed to the Project Explain why each reference project is similar to this Project Provide substance on the lessons learned and insights gained on the reference projects Identify and provide a narrative on the five (5) most significant tasks and five (5) most significant responsibilities in the role proposed for the Project
1.4	Past Performance	<p>1) Using Schedule XX (Form PP) Past Performance, provide the information requested in the subparagraphs below for each Major Participant. If an entity has no record of relevant past performance or if the information relative to a category is not available, provide a declarative statement to that effect on Form PP. For each instance of litigation, arbitration, other binding dispute resolution proceeding, assessment of liquidated damages, or termination for cause or default, provide the owner's name and the name of its current representative (and current phone and email addresses) who can be contacted for additional information. With respect to the information solicited, failure to provide this information, conditional or qualified submissions to requests or questions posed (such as "to our knowledge", "to the extent of available information", "such information is not readily available", "such</p>

Section	Title	Submittal Contents
		<p>information is not maintained in the manner requested”, etc.), incomplete or inaccurate submissions or non-responsive submissions may, in the sole discretion of MTA C&D, lead to a low evaluation rating for this evaluation factor or result in a deficiency that would cause MTA C&D to declare the Proposal non-responsive.</p> <ol style="list-style-type: none"> 2) Awards, Citations and/or Commendations (Schedule XXI): List awards, citations and/or commendations for performance relevant to this Project received by any Major Participant within the last seven (7) calendar years. Describe the work for which awards, citations and/or commendations were received. Provide copies of award(s), citations and/or commendations. 3) Claims, dispute proceedings, litigation and arbitration proceedings: Provide a list of all litigation, arbitration and other binding dispute resolution proceedings involving amounts in excess of \$500,000 and related to performance of a contract involving planning, permitting, design, construction or demolition of a public works project in which any Major Participant has been involved during the past five (5) calendar years. Include all litigation, arbitration, and other binding dispute resolution proceedings initiated by or against owners and federal, State and local regulatory agencies. Indicate whether the litigation, arbitration or binding dispute resolution proceeding was resolved against the Major Participant(s) or its insurers/sureties or resulted in reduction in compensation to the Major Participant. Indicate any unresolved, outstanding claims, dispute proceedings, litigation and arbitration proceedings. 4) Liquidated damages: Describe any assessment of liquidated damages against any Major Participant involving amounts in excess of \$100,000 over the past seven (7) calendar years. Describe the causes of the delays and the amounts assessed. Describe any outstanding damage claims by or damages due and owing to any owner/agency. 5) Termination for cause or default: Describe the conditions surrounding any contract (or portion thereof) entered into by any Major Participant over the past seven (7) calendar years that has been terminated for cause or default, or which required completion by another party. Describe the reasons for termination and the amounts involved. 6) Disciplinary Action: Indicate any disciplinary action taken against any Major Participant within the past seven (7) years by any governmental agency or licensing board, including debarment, suspension from the right to propose or removal from any respondent list. 7) Vendor Responsibility Questionnaire for New York State: Confirm that each Major Participant either submitted a new Vendor Responsibility Questionnaire to MTA C&D prior to the Proposal Deadline for Legal/Administrative Proposals, or already has on file with MTA C&D or another State agency a current Vendor Responsibility Questionnaire for New York State. Note for information: The New York State Comptroller requires that there is on file a current New York State Vendor Responsibility Questionnaire for any firm that is doing business or is seeking to do business with a contracting agency of New York State. Vendor Responsibility Questionnaires are required to be updated at least annually. Copies of Vendor Responsibility Questionnaire forms and guidance on completing and submitting Vendor Responsibility Questionnaire forms are available at the website of the Office of the

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		New York State Comptroller at: http://www.osc.state.ny.us/vendrep/forms_vendor.htm . Please note that adherence to vendor responsibility requirements will also be expected of subcontractors.
1.5	Outreach Management	<ol style="list-style-type: none"> 1) Identify the Outreach Management team proposed in the organization chart and any additional personnel and provide a narrative outlining the quality and suitability of the proposed personnel, their proposed approach to outreach and the anticipated roles and responsibilities. 2) Provide a narrative on the anticipated activities and interfaces of the Outreach team including: <ol style="list-style-type: none"> a. Communications protocols b. Community communications – newsletters, website, brochures, presentations, apps, etc. c. Outreach offices for community to learn of the Project d. Community task forces engagement, management and inclusion e. Weekly updates to MTA C&D f. Management of Project advocates and adversaries g. Management and interface with the press 3) Provide a list and description of all deliverables from the Outreach Management team and anticipated schedule/ intervals.
1.6	Design Management	<ol style="list-style-type: none"> 1) Identify the Design Management team proposed in the organization chart and provide a narrative outlining the quality and suitability of the proposed personnel, their proposed approach to design management and the anticipated roles and responsibilities. 2) Identify what work will be done at the Project Office, and what will be done remotely. 3) Describe the systems integration approach to be used for design to ensure environmental, construction, community and durability issues are incorporated.
1.7	Construction Management	<ol style="list-style-type: none"> 1) Identify the Construction Management team proposed in the organization chart and provide a narrative outlining the quality and suitability of the proposed personnel, their proposed approach to construction management and the anticipated roles and responsibilities. 2) Describe the proposed construction approach and how construction will be implemented. 3) Explain what work will be managed by geographic area, what work will be managed by discipline, or combinations of both. Identify geographic works managers. 4) Explain how design/construction integration across multiple disciplines will be managed. 5) Explain how subcontractors will be managed. Outline what responsibilities are transferred to subcontractors and specifically address quality and schedule. 6) Provide a narrative and detail on the expected management to craft ratio.
1.8	Environmental Compliance and Mitigation	<ol style="list-style-type: none"> 1) Identify the Environmental Compliance team proposed in the organization chart and additional personnel and provide a narrative outlining the quality and suitability of the proposed personnel, their proposed approach to environmental compliance and the anticipated roles and responsibilities. 2) Describe the approach that will be used to ensure that Work will be conducted in a way that complies with environmental requirements

Section	Title	Submittal Contents
		<p>set out in the Contract Documents and is consistent with the Environmental Assessment and all Environmental Approvals.</p> <ol style="list-style-type: none"> 3) Identify the plans that the Proposer will develop to eliminate, reduce and/or mitigate environmental impacts at environmentally sensitive aspects of the Work, addressing potential Work activities related to the natural environment, physical environment, and cultural and historic resources, including the monitoring, treatment and discovery of existing and unknown archaeological and/or cultural resources encountered throughout the Contract term. 4) Identify all environmental factors (noise, traffic disruption, etc.) that are to be managed during design and construction activities to ensure compliance with the EA. 5) Provide examples from five (5) previous projects that demonstrate the Proposer's ability to meet environmental commitments. 6) Outline all environmental monitoring that is to be implemented, identify equipment to be used and detail activity trigger levels. 7) Identify any anticipated environmental impacts that are greater than those disclosed in the Environmental Requirements, and any additional impacts not identified in the Environmental Requirements, associated with approved or conditionally approved ATCs included in the Technical Proposal and other technical concepts that are not ATCs. 8) Identify all new Environmental Approvals and changes to existing Environmental Approvals, including reevaluations or supplements to the Environmental Assessment, required for implementation of approved or conditionally approved ATCs included in the Technical Proposal and other technical concepts that are not ATCs. 9) Describe the Proposer's plan to obtain all new Environmental Approvals and changes to existing Environmental Approvals identified in Item (7) and associated schedule implications.
1.9	System Safety	<ol style="list-style-type: none"> 1) Identify the Safety team proposed in the organization chart and any additional personnel and provide a narrative outlining the quality and suitability of the proposed personnel, their proposed approach to safety and the anticipated roles and responsibilities. 2) Submit Schedule XXII (Form S), Safety Questionnaire for each Principal and Construction Subcontractor that is a Major Participant for the projects listed on Form E-2 submitted with the Proposer's SOQ including the following: Name of Project, Total Hours by All Employees, Number of Lost Workday Cases, Number of Restricted Workday Cases, Number of Cases with Medical Attention Only, Number of Fatalities on that Project. 3) Describe the approach that will be used to ensure Project safety, including analysis, design, and construction considerations. 4) Provide a draft Project Health and Safety Plan.
1.10	System and Construction Security	<ol style="list-style-type: none"> 1) Identify the Systems Security team proposed in the organization chart and any additional personnel and provide a narrative outlining the quality and suitability of the proposed personnel, their proposed approach to security and the anticipated roles and responsibilities. 2) Describe the approach that will be used to ensure system security, including analysis, design, and construction considerations.
1.11	Railroad Operations	<ol style="list-style-type: none"> 1) Identify the Railroad Operations team proposed in the organization chart and any additional personnel and provide a narrative outlining the quality and suitability of the proposed personnel, their proposed approach to operations and the anticipated roles and responsibilities

Section	Title	Submittal Contents
		<ol style="list-style-type: none"> 2) Describe how work will be managed and coordinated with MTA C&D, Metro-North, Amtrak and LIRR including: <ol style="list-style-type: none"> a. Minimizing impacts on rail operations. b. Minimizing force account and other expenditures required by MTA C&D, Metro-North, Amtrak, and LIRR. c. Coordination with MTA C&D, Metro-North, Amtrak and LIRR for flagging, outages. d. Coordination with MTA C&D, Metro-North, Amtrak and LIRR regarding the use of work trains and any other equipment that will be used on the track or ROW.
1.12	Quality	<ol style="list-style-type: none"> 1) Identify the Quality Management team and Independent Construction QC Firm proposed in the organization chart and any additional personnel and provide a narrative outlining the quality and suitability of the proposed personnel, their proposed approach to quality and the anticipated roles and responsibilities. 2) Describe the proposed quality approach that will be used to ensure overall quality of the work, including Special Inspections: <ol style="list-style-type: none"> a. Explain how design quality will be achieved b. Explain how construction quality will be achieved, and the roles of the Independent Construction QC Firm and independent test laboratories. c. Explain the proposed QA/QC approach and quality interface with MTA C&D. d. Explain the proposed process to demonstrate final compliance and acceptance with the Project requirements and in particular the role of MTA C&D in approvals/comments. e. Explain the process to correct defects and non-conformance in the Work in particular the role of MTA C&D in approvals/comments. f. Explain how quality will be handled for specialty items including but not limited to signals and train control, and traction power. g. Explain the process for configuration management and version control.
1.13	MPT	<ol style="list-style-type: none"> 1) Identify the team proposed in the organization chart that is responsible for traffic management and any other personnel and provide a narrative outlining the quality and suitability of the proposed personnel, their proposed approach to traffic management and the anticipated roles and responsibilities. 2) Describe how MPT will be implemented and managed.
1.14	Third Parties and Utility Owners	<ol style="list-style-type: none"> 1) Identify the team proposed in the organization chart and any other personnel that are responsible for coordination with Third Parties and Utility Owners and provide a narrative outlining the quality and suitability of the proposed personnel, their proposed approach to utilities and the anticipated roles and responsibilities. 2) Describe the approach that will be used to manage and coordinate work with affected Third Parties and Utility Owners. 3) Outline the significance placed on utilities as part of the overall Project and what measures are proposed to ensure that the Project stays on schedule.

Section	Title	Submittal Contents
1.15	Mobilization	<ol style="list-style-type: none"> 1) Describe the proposed mobilization plan and approach to commencing Design and Construction Work. 2) Provide details regarding co-located office space that shall be provided for use by the Design-Builder and MTA C&D.
1.16	Risk Management	<ol style="list-style-type: none"> 1) Provide a narrative that demonstrates the Proposer's understanding of the risks specific to the Project and outlines the Proposer's risk management approach and methodology, including: <ol style="list-style-type: none"> a. How risks will be identified, assessed, responded to and monitored throughout the Project; b. Categories and definitions to be used in support of qualitative analysis of risks; c. Tools and techniques to be used for quantitative analysis of risks; d. How contingency and mitigation plans will be developed, implemented and monitored; e. How the Proposer's risk management process will be integrated with all activities performed by the Proposer's team members; and f. Risk communication and reporting. 2) Provide a risk register that identifies: <ol style="list-style-type: none"> a. Project risk items; b. The owner of each risk, consistent with the Contract Documents; c. Probability of risks occurring on the Project; d. Potential severity of impacts to Project if risk occur; e. Triggering events or root causes of risks; f. Ability to predict or control occurrence of risks; g. Time line horizon of risks (short-term, mid-term or long-term); h. Response strategy and plans for managing each risk; and i. Residual risk assessment after implementation of a response plan.
1.17	Ingenuity	<ol style="list-style-type: none"> 1) Provide description of innovations and explain how they will contribute to improved implementation of the Project, organized by: <ol style="list-style-type: none"> a. Management b. Processes and procedures c. Risk reduction d. Interactions
1.18	ATCs	<ol style="list-style-type: none"> 1) Identify all approved ATCs included in the Proposal. 2) Describe the steps to be taken to comply with the conditions of any approval and to obtain all required third-party approvals.
1.19	Envision	<p>Design-Builder will provide a project-specific sustainable design/construction strategy to incorporate Envision V3 requirements for Gold standard into the project design and delivery. At minimum, the proposed strategy will address following components:</p> <ol style="list-style-type: none"> 1. Design- Builder's Corporate Sustainability Policies including: Environmental Management System, Sustainable Procurement & Subcontractor Selection Policy, and Equity/Social Justice Policy. 2. Name and resume of Envision Sustainability Professional(s) (ENV SP) accredited person/team assigned for the project. 3. Design-Builder's experience and demonstrated ability in completing sustainable projects of similar size/scope with third party certification such as LEED, Envision etc.

Section	Title	Submittal Contents
		<ol style="list-style-type: none"> 4. How the Design-Builder plans to meet requirements stated in General Requirements -Section – Section 01 81 13 (Sustainable Design and Construction Requirements), including but not limited to the following: <ol style="list-style-type: none"> i. Sustainable Design Plans and Action Plan - Scope and submittal schedule ii. Monthly integrated Design Charette meeting - Scope iii. Sustainable Design and Construction Updates and Progress Reports iv. Community and Stakeholder engagement and feedback strategy during design and constructions, and v. Envision credit documentation and filing system that will be used for the project team and for ISI verification purpose. 5. Design-Builder's Sustainable goals for the project as they relate to the Envision requirements (If available).
Volume 2 - Package 2: Project Design		
<p>Objectives:</p> <ol style="list-style-type: none"> 1) To demonstrate the Proposer's understanding of the Scope-of-Work 2) To identify what Proposer intends to design and construct 3) To demonstrate the quality of the solutions proposed 4) To demonstrate how the proposed solutions integrate with the local communities 5) To demonstrate how the proposed technical solutions minimize or mitigate any potential environmental and community impacts 		
2.1	Project Basis	<p>Detailed narrative:</p> <ol style="list-style-type: none"> 1) Understanding of the overall operation of the Railroads and the implications of the Project Work 2) Understanding of the local communities and their Project concerns 3) Understanding of the natural and human environment in the vicinity of the Project
2.2	Project Challenges, Risks and Opportunities	<p>Detailed narrative:</p> <ol style="list-style-type: none"> 1) Design and construction challenges and proposed measures to eliminate or mitigate 2) Potential community and environmental impacts and proposed measures to eliminate or mitigate
2.3	Design Approach	<p>Detailed narrative:</p> <ol style="list-style-type: none"> 1) Principles and goals of the proposed design and how Project requirements are to be achieved and exceeded. 2) Do the Stations Designs adhere to the MetroNorth Guidelines and reflect well-detailed design solutions? 3) Describe how environmental commitments will influence design and construction. 4) Identify, list and describe all Project Elements. 5) Propose Project Elements that exceed Project requirements.
2.4	Landscaping and Aesthetics	<p>Detailed Narrative:</p> <ol style="list-style-type: none"> 1) Provides an understanding of landscape protection, removal and restoration for the Project. 2) Identifies all design elements for which the Proposer intends aesthetic treatments. 3) Outlines the family of aesthetic treatments proposed across the Project or within specific communities for specific Project

Section	Title	Submittal Contents
		<p>Elements.</p> <ol style="list-style-type: none"> 4) Provides color graphics/simulations indicating realistic representations of proposed aesthetic treatments. 5) The narrative shall specifically address: <ol style="list-style-type: none"> a. Landscaping, streetscape and screening b. Undergrade crossings and railroad bridges c. Sound attenuation walls d. Stations e. Permanent facilities f. Traction power substations
2.5	Reliability and Maintainability	<p>Detailed Narrative:</p> <ol style="list-style-type: none"> 1) Describes in detail Design-Builder's approach to developing a RAM Plan. 2) Describe the processes to be used to establish RAM requirements. 3) Describe the methods, procedures, and controls to be used to demonstrate compliance with requirements.
2.6	Graphics	<ol style="list-style-type: none"> 1) Photo realistic representations from 3-D models of each station showing general views, user views and aesthetic treatments. 2) Photo realistic representations from 3-D models of representative sound walls. 3) Photo realistic representations from 3-D models of any other proposed aesthetic treatments.
2.7	Video	<ol style="list-style-type: none"> 1) One 2 to 5-minute video showing a video realistic aerial overlay of the completed new Project over that existing. 2) Video shall include all existing physical features within the Project limits modified as per final Project Elements.
2.8	Project Components	<p>Provide description, supplemented by plans and drawings as necessary to set out what the Proposer intends to build in each of the following work types:</p> <ol style="list-style-type: none"> 1) Project Plans <ol style="list-style-type: none"> a. 1":100ft plan drawings for entire right of way showing all Project Elements including existing and new features. b. 1":100ft plan drawings at stations including existing and new features. c. Typical cross-sections along the railroad showing all features, specifically including all earth retaining or similar structure, at all key locations. d. Multiple disciplines may be depicted on plan drawings as long as information is clear and legible. 2) Utilities <ol style="list-style-type: none"> a. Conceptual utility relocation plans. b. List of all individual utility elements within Project limits including extent of modifications, materials and key details. c. Identification of any utility relocations on the critical path of the Project schedule. d. A narrative description addressing how utility relocation work will be approached

Section	Title	Submittal Contents
		<p>with minimal disruptions to utility operations and other activities on the Project.</p> <ul style="list-style-type: none"> e. Identify innovative or unique design and/or construction methods that will be implemented to minimize the impacts on existing utilities and facilities as a result of construction activities. <p>3) Overhead Contact Systems</p> <ul style="list-style-type: none"> a. Conceptual overhead contact system plans. b. A narrative description addressing how overhead contact systems work will be approached without disruption to Railroad operations. <p>4) Retaining Walls and Sound Attenuating Walls</p> <ul style="list-style-type: none"> a. List of all walls affected by the Project with outline statements of extent of work to be completed. b. A narrative description addressing how retaining and sound attenuation wall work will be approached. Include details of construction means and methods including proposed construction equipment, site access and construction logistics. c. Conceptual plans showing extent of all walls plus program of wall finishes, materials, top of wall elevations. d. Concept plans showing all representative walls types and details proposed within each community. <p>5) Bridges - Describe the factors taken into consideration in the decision to replace or rehabilitate. In the case of rehabilitation, the Design-Builder shall indicate the specific measures taken to achieve the required design service life. Describe the type of inspection and anticipated track outages required to perform final design. Provide conceptual plans for all major structures affected – this shall include proposed foundation, a bridge plan and elevation, typical bridge section, staged construction sections (if applicable) and outline of the construction method. The construction method shall demonstrate the impacts to the Railroad and the public.</p> <p>6) Stations and Pedestrian Overpasses</p> <ul style="list-style-type: none"> a. Layouts for each station identifying before and after station features. b. Schedule of all Project Elements within each station to be modified. c. Representative sections at all key locations. d. General arrangement drawings of all pedestrian overpasses or underpasses. <p>7) Track</p> <ul style="list-style-type: none"> a. The Proposer shall provide a narrative and concept for the proposed approach to trackwork.

Section	Title	Submittal Contents
		<ul style="list-style-type: none"> b. Alignment and layout drawings for all trackwork within the Project limits. c. Schedule of all special trackwork to be provided and/or supplied to the railroads. <p>8) Drainage</p> <ul style="list-style-type: none"> a. The Proposer shall provide concept drainage plans, including plan sheets, notes and concept for stormwater management facilities, drainage divides and ground elevations, drainage areas and flow directions, flow rate and volume calculations, major conveyance structures, culverts and existing structures and pipes within the Project limits. b. Major conveyance structures, include all storm drains and/or cross drains (pipe culverts, box culverts, and bridges) necessary to convey stormwater runoff to the stormwater management facilities and/or receiving water bodies. Identify whether pump stations are required. <p>9) Traction Power</p> <ul style="list-style-type: none"> a. The Proposer shall provide a narrative and concept for the proposed approach to traction power, provide details including proposed major equipment manufacturers (AC Switchgear/ Breakers, DC Switchgear/Breakers, Rectifiers, Rectifier Transformers, SCADA System, Signal Power Motor/Generator, and Negative Return and equalization system) and provide drawings of concept layouts. b. The Proposer shall provide a schedule for the full replacement of a modular traction power substation. c. The Proposer shall provide a narrative of their understanding of the sequencing of the substations and the signal power motor generator. <p>10) Corrosion Control</p> <ul style="list-style-type: none"> a. The Proposer shall provide a narrative and concept setting out its approach to comply with corrosion control requirements. <p>11) Signals and Train Control and Supervisory</p> <ul style="list-style-type: none"> a. The Proposer shall provide a narrative and concept for the proposed approach to the signal systems work, including approach to supervisory systems, staging and cut overs, plan sheets, notes and concept. Also, provide details of major equipment and provide drawings showing concept layouts. b. The Proposer shall provide a single line block plan.

Section	Title	Submittal Contents
		<ul style="list-style-type: none"> c. The Proposer shall provide a narrative of their plan to use pre-wired enclosures. d. The Proposer shall provide a narrative describing the plan for the integration of signal control system. <p>12) Communications</p> <ul style="list-style-type: none"> a. ROW Communications: The Proposer shall provide a narrative and concept for the proposed approach to the right of way communications work, including approach to construction, staging and cut overs, plan sheets, notes and concept. Also, provide details of major equipment and provide drawings of concept layouts. b. Communications-Stations: The Proposer shall provide a narrative and concept, for the proposed approach to the stations communications work, including approach to construction, staging and cut overs, plan sheets, notes and concept. Also, provide details of major equipment and provide drawings of concept layouts. <p>13) Security Systems</p> <ul style="list-style-type: none"> a. The Proposer shall provide a narrative and concept for the proposed approach to the security systems work, including approach to construction, staging and cut overs, plan sheets, notes and concept. Also, provide details of major equipment and provide drawings of concept layouts. The Proposer shall provide a narrative and concept for the proposed approach to incorporate the Threat and Vulnerability Risk Assessment (TVRA) methodology and the Crime Prevention Through Environmental Design (CPTED) principal to support project design. These guiding principles support MNR Security's vision of managing and guiding the security portfolio on a risk reduction based approach. <p>14) Landscaping</p> <ul style="list-style-type: none"> a. The Proposer shall describe the approach to conducting Work in a way that complies with standard Landscape Architectural requirements set out in the Contract Documents. b. The Proposer shall identify the landscape mitigation plans and tree preservation approach. c. The Proposer shall provide the concept for landscaping at Stations, Streetscape and any other additional proposed locations in Project Area. <p>15) Identify the Landscape Architectural team proposed in the organization chart and additional personnel and provide a narrative outlining the quality and suitability of the proposed personnel, their proposed approach to Landscape Architectural design and the anticipated roles and responsibilities.</p>

Section	Title	Submittal Contents
		<p>a. Describe the approach that will be used to ensure that Work will be conducted in a way that complies with standard Landscape Architectural requirements set out in the Contract Documents.</p> <p>16) Identify the landscape mitigation plans and innovation in tree preservation that the Proposer will develop for the community sensitive aspects of the Work, addressing potential work activities related to re-establishing vegetative buffers.</p> <p>17) Geotechnics</p> <p>a. Describe the geotechnical aspects of the Project site as they relate to the Project and identify critical issues and how these critical issues such as settlement and vibration will be addressed. This narrative shall include discussion on the design and construction of catenary structure foundations, bridge foundations, walls, slopes, shorings, at a minimum and the proposed approach to monitoring during construction.</p> <p>b. Describe any geotechnical investigation and testing that will be provided by the Proposer to substantiate its design.</p> <p>c. Identify the additional information relied upon by the Proposer, beyond that included in the RFP, to establish site conditions in advance of the Contract award to reduce the potential for Differing Site Conditions during execution phase. Explain how such additional information was obtained and provide copies of all documentation of such additional information.</p>
	Ingenuity	1) Provide description of Technical Solution innovations and explain how they will contribute to improved implementation of the Project.
Volume 2 - Package 3: Schedule and Construction Impact Mitigation		
<p>Objectives:</p> <ol style="list-style-type: none"> 1) To identify how the Proposer intends to construct the Work 2) To determine the proposed overall duration of construction and that of major components of the Work, including the proposed maximum duration from Notice to Proceed to Substantial Completion 3) To determine if the proposed schedules are realistic and achievable 4) To determine the potential for environmental and/or community impacts during construction 5) To determine the Proposer's balance between schedule and potential construction impacts 		

Section	Title	Submittal Contents
3.1	Project-Wide Construction Approach	<p>Detailed narrative, diagrams, graphics on the Project-wide construction approach, specifically addressing the following:</p> <ol style="list-style-type: none"> 1) Overall construction approach. 2) Construction phasing approach including construction of Leggett Interlocking. 3) Explain any unusual or innovative construction approaches proposed. 4) Explain how the proposed construction approach can help accelerate the schedule, reduce construction impacts, or both. 5) Detail the requirements for single tracking, outages, and stakeholder-provided protection forces and materials. 6) Outline extent and type of anticipated self-performed Work and Work by major subcontractors specifically for trackwork, signals and traction power. 7) Project access, ingress and egress, construction laydown areas. 8) Proposed field offices, laydown and staging areas and a timeline for use. 9) Temporary location and layout for workforce and Railroad employee facilities. 10) Material logistics including delivery, handling, storage and installation. 11) Protection of existing facilities. 12) Long lead materials and equipment. 13) Components that require specialized transport and/or handling. 14) Construction equipment proposed for major work elements including hi-rail and railbound equipment. 15) Maintenance and contingencies for sensitive operations. 16) Construction safety adjacent to existing Railroad operations. 17) Work zone traffic control. 18) Commissioning and testing. 19) Temporary facilities.
3.2	Project-Wide Staging	<p>Detailed narrative, staging plans and drawings describing:</p> <ol style="list-style-type: none"> 1) Overall construction staging. 2) Overall approach to utilities approvals and implementation.
3.3	Project-Wide Construction Schedule	<ol style="list-style-type: none"> 1) Provide a narrative outlining basis of the overall schedule. Include explanation of all assumptions specifically those associated with approvals, submittals, and/or third parties. 2) Provide a detailed critical path method schedule for the Work. The schedule shall provide sufficient detail to demonstrate that the proposed schedule is achievable and that Work can be completed within the proposed completion time. The proposed duration for Substantial Completion shall take into account all requirements, restrictions and limitations set forth in the Contract Documents, including without limitation, the provisions allowing for Railroad restrictions, force account availability and the Railroad's cancellation of approved outages. 3) Provide a time / distance diagram to show how work will be sequenced and performed along the HGL corridor including clear consideration for construction of Leggett Interlocking. 4) Provide a schedule of the duration of construction and periods allocated to Utility Owners for relocations or approvals. Include any documentation received from Utility Owners to corroborate the time periods allocated.

Section	Title	Submittal Contents
		<p>5) Provide narrative and/or diagrams for both a typical and the most active work shift, including a schedule of activities, work headings and work crews on site with an accounting of activities requiring flagging and A-Men and the number of flagging A-Men staff anticipated.</p>
3.4	Maintenance of Railroad Operations	<p>Detailed narrative, diagrams, plans and drawings describing:</p> <ol style="list-style-type: none"> 1) Overall approach to interaction with the existing Railroad operations and within the Railroad ROW. Address how Amtrak will have continued access along and within the Railroad ROW. 2) Approach to minimizing impacts on Railroad service during construction. 3) How those portions of the Work to be conducted by the Railroad are minimized and taken off the critical path. 4) Provide concept staging plans for Work within the Railroad ROW. 5) Provide a schedule outlining the duration and type of all construction Work within the Railroad ROW including activities associated with poles, retaining walls, tracks, ballast, utilities, structures, traction power, substations, systems, signals, train control, communications and others that may affect Railroad operations. 6) Provide individual schedules for installation of all trackwork at each individual crossover and interlocking. 7) List all proposed track closures including track(s) or equipment affected and provide detail on type, locations, durations, extent and primary construction works to be conducted during closure. 8) Narrative on implications of loss or rescheduling of track closures and contingencies/flexibility included to overcome any disruption. 9) Identify all Work activities to be conducted by MTA C&D and Amtrak and provide a schedule of interactions indicating durations allocated for MTA C&D and Amtrak to complete work.
3.5	Property Availability	<p>Provide recommendations for mitigation of any and all potential impacts to project phasing and schedule associated with the Real Estate acquisition process in order to achieve Substantial Completion as outlined in Section I, Part 1 – Overview and Procedures, Article 8.0 Period of Performance.</p> <p>Provide a narrative outlining the basis of schedule impacts and proposed savings, including explanation of all assumptions, staging plans, and drawings pertaining to temporary and permanent configurations for construction of:</p> <ol style="list-style-type: none"> 1) New Oak substation 2) New Van Nest substation 3) Hell Gate Line infrastructure along the Right of Way (e.g., OCS, drainage, signals, etc.) <p>Refer to the below-specified Real Estate Property Turnover drawings dated January 4, 2021:</p> <p>Oak Substation :</p> <p style="padding-left: 40px;">RWS-PTS-102 RWS-PTS-102A</p> <p>Van Nest Substation:</p> <p style="padding-left: 40px;">RWS-PTS-123 RWS-PTS-124</p>

Section	Title	Submittal Contents
		Hell Gate Line Infrastructure: RWS-PTS-111 RWS-PTS-112 RWS-PTS-119 RWS-PTS-120 RWS-PTS-122 RWS-PTS-125 RWS-PTS-126 RWS-PTS-133 RWS-PTS-135 RWS-PTS-136 RWS-PTS-146 RWS-PTS-147
3.6	Construction Activities in the Vicinity of Hunts Point	<ol style="list-style-type: none"> 1) Provide a narrative of the sequence of major construction activities. 2) Provide a schedule outlining the duration and type of all construction activities in this vicinity excluding all track, ballast or Railroad systems Work that are conducted directly from the Railroad ROW. 3) Provide construction staging and work zone traffic control drawings sufficient to understand all potential construction impacts or potential disruptions to local community. 4) Provide an assessment of the potential construction impacts and the measures to be incorporated to mitigate or eliminate. 5) Provide details and durations of all road closures.
3.7	Construction Activities in the Vicinity of Parkchester/Van Nest, Morris Park and Co-op City Stations	<ol style="list-style-type: none"> 1) Provide a narrative of the sequence of major construction activities. 2) Provide a schedule outlining the duration and type of all construction activities in this vicinity excluding all track, ballast or Railroad systems Work that are conducted directly from the Railroad ROW. 3) Provide construction staging and work zone traffic control drawings sufficient to understand all potential construction impacts or potential disruptions to local community. 4) Provide an assessment of the potential construction impacts and the measures to be incorporated to mitigate or eliminate. 5) Provide details and durations of all road closures.
3.8	Potential Community Impacts	<ol style="list-style-type: none"> 1) Provide an assessment of the overall approach taken to balance potential community impacts and schedule. 2) Provide a summary listing of anticipated community impacts during construction in each community. 3) Outline why the approach taken is considered the best course of action for the local communities. 4) Provide an assessment of any other overall approaches considered to balance community impacts and schedule and provide reasons why these directions were not adopted. 5) Provide narrative outlining the key performance indicators (KPI) that will be used to monitor and report potential construction impacts and indicate how these KPI will be used to improve performance.
3.9	Ingenuity	<ol style="list-style-type: none"> 1) Provide description of Technical Solution innovations and explain how they will contribute to improved implementation of the Project: <ol style="list-style-type: none"> a. Coordination, Third Parties and Utility Owners.

Section	Title	Submittal Contents
		<ul style="list-style-type: none"> b. Construction means and methods to minimize construction impacts. c. Program and interactions to keep the public informed.
Volume 2 - Package 4: Financial Strength		
<p>Objectives:</p> <ul style="list-style-type: none"> 1) To determine Proposer's capability and stability to undertake the financial responsibilities associated with the Project, including bonding capacity and the capability to effectively manage the scheduled cash flow as well as any unanticipated cash flow needs of the Project; and 2) To determine that Proposer has sufficient capacity, considering current, committed and potential workload and past level of contract activity, to successfully complete the design and construction of the Project. 		
4.1	Surety Guarantee Letters	<ul style="list-style-type: none"> 1) If financial statements are provided for parent companies or any other proposed guarantor, a statement signed by the Proposer's authorized representative acknowledging that such entities will be required to provide guarantees of the Proposer's obligations under the Contract. 2) For a Proposer proposing a Guarantor, submit a Guarantor Acknowledgment on letterhead signed by each Guarantor stating the Guarantor's commitment to execute a Guaranty Agreement. The Guarantor Acknowledgment shall be signed by an authorized representative of the Guarantor who is empowered to commit the Guarantor to the obligations contained in the Guarantor Acknowledgment. A Certificate of Authorization to the Guarantor Acknowledgment attesting to such authorization shall also be submitted with the Guarantor Acknowledgment. <p>If the Guarantor is a partnership, the applicable Guarantor Acknowledgment shall be signed by a general partner of each partner. If the Guarantor is a corporation, an authorized officer shall sign his or her name to the applicable Guarantor Acknowledgment and indicate his or her title beneath the full corporate name. If the Guarantor is a joint venture, each firm in the joint venture shall sign a separate applicable Guarantor Acknowledgment. If there are multiple Guarantors (which must be jointly and severally liable), each shall independently comply with these requirements and submit separate Guarantor Acknowledgments with Certificates of Authorization. Anyone signing a Guarantor Acknowledgment as agent must file with it legal evidence of his or her authority to execute such Guarantor Acknowledgment.</p> <p>Proposers may propose enhancements to any Guarantor identified in the Proposer's SOQ. Proposers must detail how the enhancements make the financial strength of the Guarantor better than the financial strength of the Guarantor as set forth in the Proposer's SOQ. MTA C&D, in its sole discretion, may consent or decline to consent to any such enhancements.</p>
4.2	Financial Statements, Information and Letters	<ul style="list-style-type: none"> 1) Provide financial statements for the Proposer and equity members of Proposer for the three (3) most recent fiscal years, audited by a certified public accountant in accordance with generally accepted accounting principles (GAAP). If the Proposer is a newly formed entity and does not have independent financial statements, financial statements for the equity members will be sufficient (and the Proposer shall expressly state that the Proposer is a newly formed entity and does not have independent financial statements).

Section	Title	Submittal Contents
		<p>Financial statements shall be provided in U.S. dollars where practicable, but financial statements in other currencies will be considered, provided that the Proposer provides a letter from the certified public accountant of the applicable entity, stating the rates of conversion as of the date of the statements, as well as current rates of conversion, and providing U.S. dollar values and descriptions in U.S. terminology for significant line items in the financial statements based on the rate of conversion as of the statement date. If audited financials are not available for an equity owner, the Proposal shall include unaudited financials for such member, certified as true, correct and accurate by the chief financial officer or treasurer of the entity. Proposers are advised that if any equity member of the selected Proposer's team does not have audited financials, MTA C&D may require a guaranty of the Contract to be provided by a separate entity acceptable to MTA C&D.</p> <p>Required financial statements shall include:</p> <ul style="list-style-type: none"> a) Opinion letter (auditor's report); b) Balance sheet; c) Income statement; d) Statement of changes in cash flow; and e) Footnotes. <ol style="list-style-type: none"> 2) If any entity for which financial information is submitted as required hereby files reports with the Securities and Exchange Commission, then such financial statements shall be provided through a copy of the entity's annual report on Form 10-K. For all subsequent quarters, provide a copy of any report filed on Form 10-Q or Form 8-K which has been filed since the latest filed Form 10-K. 3) Provide information regarding any material changes in the financial condition of the Proposer and each of its equity members for the past 3 years and anticipated for the next reporting period. If no material change has occurred and none is pending, the Proposer and/or equity member, as applicable, shall provide a letter from its chief financial officer or treasurer so certifying. 4) If financial statements are prepared in accordance with principles other than U.S. GAAP, provide a letter from the certified public accountant of the applicable entity discussing the areas of the financial statements that would be affected by a conversion to U.S. GAAP. 5) Provide a letter from the chief financial officer or treasurer of the entity or certified public accountant for each entity for which financial information is submitted, identifying all off balance sheet liabilities. 6) Provide any credit reports, credit bulletins, or other published statements by recognized rating agencies (Standard & Poor's Rating Service, Moody's Investor Services, Dun & Bradstreet and Value Line) that have been issued or published with the past five (5) years for the Proposer and each proposed guarantor. 7) Include financial information as described above for each proposed guarantor. 8) Information shall be packaged separately for each separate entity with a cover Sheet identifying the name of the organization, its role

Section	Title	Submittal Contents
		in the Proposer's organization and North American Industry Classification System (NAICS) Code.
4.3	Insurance Information	<p>1) Provide with the Proposal a letter from an insurance broker or an insurance company currently rated at least "A-/VII" or better by A.M. Best Company confirming that the Proposer is capable of obtaining the required types and limits of insurance covering the Project on a project-specific basis.</p> <p>2) Include a description of the Proposer's proposed Contractor Controlled Insurance Program for workers' compensation and general liability insurance.</p> <p>3) MTA C&D may consider use of an Owner Controlled insurance program for workers' compensation and general liability insurance as set forth in RFP Volume 2 Appendix 10.05 Insurance Requirements.</p>
Volume 2 – Technical Forms – Submit Completed Forms – See Schedules XIX-XXIV		

VOLUME 3: PRICE PROPOSAL		
1.1	Price Forms	Submit Completed Forms See Schedules XXV - XXX XXXI

SECTION I, PART 3 – SCHEDULES

GENERAL SCHEDULES

<u>Schedule</u>	<u>Description</u>
Schedule I	Key Evaluation Questions

SCHEDULE I – KEY EVALUATION QUESTIONS

Section	Proposal Submission Materials	Key Questions
Evaluation Factor: Management Approach – The <u>approach</u> to be used to implement the Project.		
1.1 1.2 1.3 1.4 1.5 1.6 1.7 1.8 1.9 1.10 1.11 1.12 1.13 1.14 1.15 1.16 1.17	Team and Experience Organization Key Personnel Past Performance Outreach Management Design Management Construction Management Environmental Compliance and Mitigation System and Construction Safety System and Construction Security Railroad Operations Quality MPT Third Parties and Utility Owner Coordination Mobilization Risk Management Ingenuity	<p>1) Does the Proposal demonstrate clear lines of responsibility, sufficient management personnel, decision making processes and well-defined roles that respond to the Project needs and address process efficiency, integration, coordination and effective communication?</p> <p>2) Does the Proposal demonstrate capacity, considering current, committed and potential workload and past level of contract activity, to successfully complete the design and construction of the Project?</p> <p>3) Does the Proposal demonstrate the quality of the proposed personnel and provide sufficient insights and lessons learned to demonstrate a deep understanding of their anticipated roles and responsibilities?</p> <p>4) Do the proposed Key Personnel have sufficient background and experience to manage the Project?</p> <p>5) Does the Proposal demonstrate a commitment to quality, safety and environmental compliance?</p> <p>6) Does the Proposal demonstrate a sound approach to delivery of the construction work including managing procurement, subcontractor outreach and selection, changes, disputes, permitting, and commissioning?</p> <p>7) Does the Proposal reflect an efficient and integrated design and construction process?</p> <p>8) Does the Proposal demonstrate an appropriate degree of coordination/interaction with the Railroads, communities, utility owners, and third parties to ensure non-interference with the operations of the existing facilities, and impact of the proposed approach on traffic flows, streets and neighbors?</p> <p>9) Does the Proposal minimize the use of Force Account and other expenditures required by MTA C&D, including items such as flagging, pilots, and outages required for construction?</p> <p>10) Is there sufficient detail presented by the Proposer that demonstrates that all key issues affecting the schedule have been considered?</p> <p>11) Does the Proposer demonstrate a thorough understanding of Project risks and risk allocation? Does the Proposer have effective risk management approach and methodology?</p> <p>12) Does the Proposal make use of ingenuity and innovation in a way that contributes positively to Project implementation?</p>
Evaluation Factor: Project Design – <u>What</u> will be built as part of the Project.		

Section	Proposal Submission Materials	Key Questions
2.1	Project Basis	<div>1. Does the Proposal provide an appropriate level of design?</div> <div>2. Does the Proposal provide a context-sensitive solution relating to passenger and community needs?</div> <div>3. Does the Proposal provide for completed work that provides for operation and maintenance by the Railroads in a fashion that is as efficient or more efficient than existing?</div> <div>4. Does the Proposal provide for a safe system that meets the safety and security requirements of MTA C&D and Amtrak?</div> <div>5. Does the Proposal provide enhancements beyond the Project requirements?</div> <div>6. Major Project Components: Does the Proposal provide for appropriate technical solutions, taking quality, design integration, operations, maintenance, and other considerations into account for each of the Technical Provisions (“TPs”).</div> <div>7. Does the Proposal make use of ingenuity and innovation in a way that contributes positively to Project implementation?</div>
2.2	Project Challenges, Risks and Opportunities	
2.3	Design Approach	
2.4	Landscaping and Aesthetics	
2.5	Reliability and Maintainability	
2.6	Graphics	
2.7	Video	
2.8	Project Components	
2.9	Ingenuity	
Evaluation Factor: Schedule and Construction Impact Mitigation – <u>How</u> will the Project be implemented, and does it provide for the best solution considering both schedule durations and community impacts.		
3.1	Project-Wide Construction Approach	<div>1) Does the Proposal execute the work with a minimum impact to rail service and the surrounding community taking into account both the duration of the schedule and construction impacts of accelerating work? Consider each of the following:<div><div>a. Construction of Systems as set out in the TPs.</div><div>b. The geographic area in the vicinity of Hunts Point Station.</div></div></div> <div>2) Does the Proposal provide a reasonable approach to minimizing impacts on sensitive receptor locations along the Project (including hospitals, recreation facilities, etc.)?</div> <div>3) Does the Proposal minimize, in particular, the work to be done by MTA C&D and Railroads, and work by MTA C&D and Railroads that is on the critical path?</div> <div>4) Does the Proposal provide detailed and summary schedules that demonstrate, with a reasonable level of certainty, that the Project can be completed within the durations set out in the Contract Documents?</div> <div>5) Does the Proposal provide for appropriate work items to be performed off-site so as to minimize construction impacts on and along the Project ROW?</div> <div>6) Does the Proposal make use of ingenuity and innovation in a way that contributes positively to Project implementation?</div>
3.2	Project-Wide Staging	
3.3	Project-Wide Construction Schedule	
3.4	Maintenance of Railroad Operations	
3.5	Construction Activities in the Vicinity of Hunts Point Station	
3.6	Construction Activities in the Vicinity of Parkchester/Van Nest, Morris Park and Co-op City Stations	
3.7	Potential Community Impacts	
3.8	Ingenuity	
Evaluation Factor: Financial Strength – Ability to finance the work to be performed to provide for timely implementation.		
4.1	Ownership	<div>1) Does the Proposal demonstrate capability and stability sufficient to undertake the financial responsibilities associated with the Project, including bonding capacity and the capability to effectively manage</div>
4.2	Surety Letters and Guarantee Letter	

Section	Proposal Submission Materials	Key Questions
4.3	Financial Statements, Information and Letters	the scheduled cash flow as well as any unanticipated cash flow needs of the Project?
4.4	Insurance Information	
Evaluation Factor: Diversity Practices – Ability to meet the DBE Participation Goal for this Contract.		
5.1	Schedule XXXI	1) Does the Proposal demonstrate capability to meet the DBE Participation Goal for this Contract?

LEGAL AND ADMINISTRATIVE PROPOSAL SCHEDULES

<u>Schedule</u>	<u>Description</u>
Schedule II	EEO-1 Form
Schedule III	Omnibus Procurement Act Form
Schedule IV	Addenda Acknowledgment
Schedule V	Joint Venture Agreement
Schedule VI	Contractor Responsibility Data
Schedule VI-A	Contract-Specific Responsibility Form
Schedule VII	NYS Certification of Restrictions on Lobbying
Schedule VIII	MTA Vendor Code of Ethics Certification
Schedule IX	Disclosure Form for Potential Conflict of Interest
Schedule X	Iran Divestment Act Certification
Schedule XI	Proposer's Acknowledgment
Schedule XII	Proposer's Signature and Certificate of Authority
Schedule XIII	Federal Certification and Disclosure Forms
Schedule XIV	Proposed Subcontractor Questionnaire
Schedule XIV-A	Contract-Specific Subcontractor Questionnaire
Schedule XV	Executive Order No. 177 Certification
Schedule XVI	Diversity Practices Questionnaire
Schedule XVII	Drug and Alcohol Certifications
Schedule XVIII	Diesel Emission Reduction Act (DERA) Requirements
Schedule XXXI	DBE Forms
Schedule XXXII	Prime Contractor Certification of No Change
Schedule XXXIII	Subcontractor Certification of No Change

SCHEDULE II – EEO-1 FORM

EMPLOYER INFORMATION REPORT EEO-1

Section A - TYPE OF REPORT

1. Indicate by marking in the appropriate box the type of reporting unit for which this copy of the form is submitted (MARK ONLY ONE BOX.)

Multi-establishment Employer:

- | | |
|---|--|
| (1) <input type="checkbox"/> Single-establishment Employer Report | (2) <input type="checkbox"/> Consolidated Report (Required) |
| | (3) <input type="checkbox"/> Headquarters Unit Report (Required) |
| | (4) <input type="checkbox"/> Individual Establishment Report (submit one for each establishment with 50 or more employees) |
| | (5) <input type="checkbox"/> Special Report |

2. Total number of reports being filed by this Company (Answer on Consolidated Report only)

SECTION B -- COMPANY IDENTIFICATION (To be answered by all employers)

Office
Use
Only

1. Parent Company

- a. Name of parent company (owns or controls establishment in item 2) omit if same as above

a.

Address (Number and street)

b.

City or town

State

ZIP code

c.

2. Establishment for which this report is filed. (Omit if same as above)

a. Name of establishment

d.

Address (Number and street)

City or Town

County

State

ZIP code

e.

- b. Employer Identification No. (IRS 9-DIGIT TAX NUMBER)

f.

- c. Was an EEO-1 report filed for this establishment last year? 1 ☐ YES 2 ☐ NO

METROPOLITAN TRANSPORTATION AUTHORITY

Office of Civil Rights

EQUAL EMPLOYMENT OPPORTUNITY

EMPLOYER INFORMATION REPORT EEO-1

Section C - EMPLOYMENT DATA

Employment at this establishment. Report all permanent full-time and part-time employees, including apprentices and on-the-job trainees, unless specifically excluded as set forth in the instructions, which can be found here: <https://www.eeoc.gov/employers/eo-1-survey/alternate-eo-1-reporting-formats> . Enter the appropriate figures on all lines and in all columns. Blank Spaces will be considered as zeros.

Job Categories	NUMBER OF EMPLOYEES										
	Overall Totals (Sum of Col. B thru K)	MALE					FEMALE				
		White (Not of Hispanic Origin)	Black (Not of Hispanic Origin)	Hispanic	Asian or Pacific Islander	American Indian or Alaskan Native	White (Not of Hispanic Origin)	Black (Not of Hispanic Origin)	Hispanic	Asian or Pacific Islander	American Indian or Alaskan Native
		A	B	C	D	F	G	H	I	J	K
Officials and Managers 1											
Professionals 2											
Technicians 3											
Sale Workers 4											
Office and Clerical 5											
Craft Workers (Skilled) 6											
Operatives (Semi-Skilled) 7											
Laborers (Unskilled) 8											
Service Workers 9											
TOTAL 10											
Total employment reported in previous EEO-1 report 11											

NOTE: Omit questions 1 and 2 on the Consolidated Report.

1. Date(s) of payroll period used: _____ 2. Does this establishment employ apprentices?

1 ☐ Yes 2 ☐ No

METROPOLITAN TRANSPORTATION AUTHORITY

Office of Civil Rights

EQUAL EMPLOYMENT OPPORTUNITY

EMPLOYER INFORMATION REPORT EEO-1

Section D -ESTABLISHMENT INFORMATION (Omit on the Consolidated Report)

1. What is the major activity of this establishment? (Be specific, i.e., manufacturing steel castings, retail grocer, wholesale plumbing supplies, title insurance, etc. Include the specific type of product or type of service provided, as well as the principal business or industrial activity).

OFFICE
USE
ONLY

g.

Section E-REMARKS

Use this item to give any identification data appearing on last report which differs from that given above, explain major changes in composition or reporting units and other pertinent information.

Section F-CERTIFICATION

- Check 1 ☐ All reports are accurate and were prepared in accordance with the instructions (check on consolidated only)
one 2 ☐ This report is accurate and was prepared in accordance with the instructions.

Name of Certifying Official	Title	Signature	Date
Name of person of contact regarding this report (type or print)	Address (Number and Street)		
Title	City and State	ZIP Code	Telephone Number (Including Area Code)

SCHEDULE III – OMNIBUS PROCUREMENT ACT FORM

IMPORTANT NOTICE TO BIDDERS/PROPOSERS, INCLUDING QUESTION AND INCORPORATED CONTRACT PROVISIONS, NEW YORK OMNIBUS PROCUREMENT ACT (CHAPTER 844 of 1992) ENCOURAGING THE USE OF NEW YORK STATE BUSINESS ENTERPRISES IN CONTRACT PERFORMANCE

1. Definition: For purposes of this notice, a “New York State Business Enterprise” means a business enterprise consisting of a person acting as a sole proprietorship, or a legal entity such as but not limited to a corporation, limited liability company, or partnership, which offers for sale or lease or other form of exchange, goods which are sought by a New York State public authority or public benefit corporation, which are substantially manufactured, produced or assembled in New York state, or services which are sought by the public authority or public benefit corporation and which are substantially performed within New York State.

2. It is the policy of New York State to maximize opportunities for the participation of New York State Business Enterprises, including minority and women-owned business enterprises, as bidders/proposers, subcontractors, and suppliers. New York State Business Enterprises that participate as contractors, subcontractors and suppliers in the contracts of the Metropolitan Transportation Authority and its affiliated and subsidiary agencies (collectively, “MTA”) strongly contribute to the economies of the State and the nation. In recognition of this contribution, bidders/proposers for this contract are strongly encouraged and expected to consider New York State Business Enterprises in the fulfillment of the requirements of this contract. Such participation may be as subcontractors, suppliers, or other supporting roles. MTA, to the maximum extent practicable and consistent with legal requirements, desires to achieve participation of qualified and responsible New York State Business Enterprises in purchasing commodities and services including technology. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law. Utilizing New York State Business Enterprises in MTA contracts will help create more private sector jobs, rebuild New York’s infrastructure and maximize economic activity to the mutual benefit of contractors, participating New York State Business Enterprises, the public sector and the people of the State of New York. Public procurements can drive and improve the State’s economic engine through promotion of the participation of New York State Business Enterprises by MTA contractors. MTA, therefore, strongly encourages bidders/proposers to use New York State Business Enterprises in MTA contracts. The potential participation by all kinds of New York State Business Enterprises in MTA contracts will deliver great value to the MTA, the State and its taxpayers.

3. A bidder/proposer responding to this solicitation may answer the question below in its bid or proposal to demonstrate its voluntary commitment to the use of New York State Business Enterprises¹:

Does bidder/proposer anticipate that one or more New York State Business Enterprises will be used in the performance of this contract?

¹ While support of New York State Business Enterprises is encouraged, how a bidder/proposer responds to this question will have no impact on the award of the subject procurement (except for certain rolling stock procurements where the law expressly permits New York State content to be part of the evaluation criteria for award).

Yes: ____

No: ____

If the answer is yes, please identify in the bid/proposal the New York State Business Enterprises that the bidder/proposer anticipates will be used, to the extent known, and attach identifying information about each such New York State Business Enterprise.

4. The bidder/proposer that is awarded and enters into the contract (the “Contract”) that is the subject of this solicitation (“Contractor”) agrees by so entering into such contract to the following, which is incorporated into and made a part of the Contract:

A. Contractor agrees to furnish to MTA information regarding its use of New York State Business Enterprises in the performance of this Contract, including by reporting to MTA, in response to MTA’s request, whether New York State Business Enterprises are being, have been or are anticipated to be, used in the performance of the Contract, and, if so, by providing identifying information about each such New York State Business Enterprise.

5. If the Contract is in an amount of \$1 million or more (a “Large Contract”) the following additional provisions are incorporated into and are made a part of the Large Contract:

A. Contractor shall (i) upon entering into the Large Contract provide to MTA documentation of its effort to encourage use of New York State Business Enterprises and (ii) thereafter also report the extent of such use for each such New York State Business Enterprise (a) in response to a request of the MTA project manager and (b) at the time of Contract close-out.

B. Contractor is required to make reasonable efforts to encourage the participation of New York State Business Enterprises and suppliers and subcontractors on such Large Contract. Contractor will be required to document its efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors by showing it has (i) solicited bids/proposals, in a timely and adequate manner from New York State Business Enterprises including certified minority-owned business, (ii) contacted the New York State Dept. of Economic Development to obtain listings of New York State Business Enterprises, (iii) placed notices for subcontractors and suppliers in newspapers, journals or other trade publications distributed in New York State, or (iv) participated in bidder/proposer outreach conferences. Documentation of such efforts of the Contractor must be produced to the MTA upon MTA’s request. If the Contractor determines that New York State Business Enterprises are not available to participate on the contract as subcontractors or suppliers, the Contractor shall provide a statement to the MTA indicating the method by which such determination was made. If the Contractor does not intend to use subcontractors, the Contractor shall provide a statement to MTA verifying such.

C. Contractor must comply with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended.

D. Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this contract through listing any such positions with the Division of Employment and Workforce Solutions of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. Contractor agrees to document these efforts and to provide said documentation to the MTA or the State, upon request.

E. Contractor acknowledges that New York State may seek to obtain offset credits from foreign counties as a result of this contract and agrees to cooperate with the State in these efforts.

6. Information on the availability of New York State subcontractors and suppliers is available:

Online by going to the following address and signing up for a free account with the New York State Contract Reporter: <https://www.nyscr.ny.gov/nysBusinessReg.cfm>.

By telephoning the New York State Department of Economic Development, Division of Small Business at 518-292-5266.

7. A directory of New York State certified minority and women-owned business enterprises is available:

Online at <https://ny.newnycontracts.com/Default.asp>

By contacting the Empire State Development's Division of Minority and Women's Business Development:

Albany, NY 12245
(518) 292-5250
or
633 Third Avenue, 33rd Floor
New York, NY 10017
(212) 803-2414

By contacting the MTA's Department of Diversity and Civil Rights at 646-252-1385 for an appointment to inspect the directory at 2 Broadway, 16th floor, New York, NY 10004. At your request, the Department of Diversity and Civil Rights will assist a firm in reviewing the directory.

8. Contractors that want to be informed by e-mail of future contracting opportunities that may be of interest to them that are advertised in the New York State Contract Reporter, may sign up for a free account by going to <https://www.nyscr.ny.gov/contracts.cfm>

9. Contractors that want to sign up, at no charge, to be included in the New York State Business Registry, which may be used by various New York State public agencies and by prime contractors who may contact the Contractor's business directly about subcontracting opportunities, may go to <https://www.nyscr.ny.gov/nysBusinessReg.cfm>. Requests for listing in this registry may be made by:

- i) a New York State Business Enterprise that is not currently listed in this registry; and
- ii) a business in any other state or country provided the state or country in which the company is located does not engage in discriminatory purchasing practices. These discriminatory jurisdictions are identified within the Business Registry application.

SCHEDULE IV – ADDENDA ACKNOWLEDGMENT

Proposer acknowledges receipt of the following Addenda to the Contract:

Addendum Number_____	Date _____
Addendum Number_____	Date _____
Addendum Number_____	Date _____
Addendum Number_____	Date _____
Addendum Number_____	Date _____
Addendum Number_____	Date _____
Addendum Number_____	Date _____
Addendum Number_____	Date _____

SCHEDULE V – JOINT VENTURE AGREEMENT

If this Proposal is submitted by a Joint Venture, the parties thereto shall submit a notarized Joint Venture Agreement, identifying the contract and stating the intent of the Joint Venture, the cost sharing arrangements between the parties, the management responsibilities, and identifying the person or persons empowered to commit the Joint Venture in contractual agreements related to this Contract.

SCHEDULE VI – CONTRACTOR RESPONSIBILITY DATA

PART I - INSTRUCTIONS²

1. The Responsibility Questionnaire (“Questionnaire”) shall be completed and submitted in the following circumstances:
 - a. **Bidders:**
 - i. Bidders, submitting a Bid for public work contracts, where the Bid is equal to or exceeds \$15,000, are to complete and submit Parts I, II, III, IV and VII of the Questionnaire with their Bid;
 - ii. Bidders submitting a Bid for contracts for supplies, materials, or equipment (purchase contracts), or miscellaneous procurement or miscellaneous service contracts, where the Bid submitted is equal to or exceeds \$250,000, that also submit an Operating Agreement Bid or a Purchase Agreement Bid, shall complete Paragraphs G and H of those Bid documents, and shall complete and submit Parts I, II and VII of the Questionnaire with their Bid.
 - iii. The apparent low Bidder will receive notification requesting submission of Parts V and VI of the Questionnaire.
 - b. **Proposers:**
 - i. Proposers, submitting a Proposal for public work contracts, where the Proposal is equal to or exceeds \$15,000 are to complete and submit all Parts of the Questionnaire with their Proposal;
 - ii. Proposers, submitting a Proposal for personal service (including Architectural and Engineering) contracts where the Proposal is equal to or exceeds \$15,000 are to complete and submit all Parts of the Questionnaire with their Proposal, unless the Proposer has previously provided the completed Questionnaire in connection with this solicitation and there have been no changes;
 - iii. Proposers submitting a Proposal for supplies, material, equipment (including transit vehicles and rolling stock) or miscellaneous procurement or service contracts where the Proposal is equal to or exceeds \$15,000 are to complete and submit all Parts of the Questionnaire with their Proposal.
 - c. **Non-Competitive/Sole Source:**
 - i. Proposers for non-competitive/sole source purchase contracts (including preferred sources) or purchase orders/contracts awarded pursuant to existing contracts, that are equal to or in excess of \$15,000, are to complete and submit all Parts of the Questionnaire with their Proposal.

² PERSONAL PRIVACY PROTECTION LAW NOTIFICATION

The information the Contractor is providing on this application, including information about Key People, is requested pursuant to the New York State Public Authorities Law for the purposes of determining the Applicant Firm’s responsibility for a Contract award. Failure to provide the specified information and authorization requested may, in the sole discretion of the MTA, prevent your firm’s award of a Contract by the MTA and/or its agencies. The information will be kept in a file maintained by MTA and its agencies or other files maintained under the authority of MTA and its agencies. Information which, because of any name, number, symbol, mark or other identifier, can be used to identify a person, shall be received, maintained and used by the MTA and its agencies solely for the above-stated purposes and will be protected from public disclosure to the fullest extent permitted by law.

- ii. Proposers for non-competitive public work contracts, where the proposal submitted equals or exceeds \$25,000; for non-competitive personal service (consultant) contracts where the proposal submitted equals or exceeds \$20,000; and for other non-competitive contracts where the proposal submitted equals or exceeds \$25,000, are to complete and submit all Parts of the Questionnaire with their Proposal.
- d. Subcontractors:**
- i. A Subcontractor is defined as being a ‘known’ Subcontractor, if that Subcontractor is proposed by the Bidder/Proposer as a Subcontractor for work on the Contract prior to Contract Award, or is a Subcontractor for which the Bidder/Proposer is requesting approval subsequent to Contract Award.
 - ii. A known Subcontractor is required to complete and submit all Parts of the Questionnaire if that Subcontractor has entered into subcontracts with the Bidder/Proposer valued at \$1 million or more. The Bidder/Proposer or Contractor that is proposing, or requesting approval for, the Subcontractor will obtain the completed Questionnaire from the Subcontractor and provide it to MTACC.
 - iii. A subcontract for the provision of goods, services or construction is valued at \$1 million or more **if when aggregated with the value of all other such subcontracts between the same Bidder/Proposer and the Subcontractor for Authority Contracts (refer to the definition of “Authority” in Paragraph 2), during the immediately preceding twelve (12) month period, has an aggregate value of \$1 million dollars or more.**
- e. Special Circumstances Contracts or Subcontracts:**
- i. Special Circumstances Contracts or Subcontracts, are contracts and subcontracts for painting; scrap; hazardous materials; concrete; lead; asbestos; inspection and testing; security-related projects; carting; and textiles and garments; or such other area as the Authority may designate from time to time.
 - ii. **Proposers** for ‘Special Circumstances’ Contracts that equal or exceed \$100,000.00 shall complete and submit all Parts of the Questionnaire with their Proposal, unless the Proposer has previously provided the completed Questionnaire in connection with this solicitation and there have been no changes.
 - iii. **Bidders** for ‘Special Circumstances’ Contracts that equal or exceed \$100,000.00 shall complete and submit Parts I, II, III, IV and VII of the Questionnaire unless they are submitting an Operating Agreement Bid or a Purchase Agreement Bid, in which case the Bidder shall complete Paragraphs G and H of those documents, and shall complete and submit Parts I, II and VII of the Questionnaire.
 - iv. The apparent low Bidder will receive notification requesting submission of Parts V and VI of the Questionnaire.
 - v. **Known Subcontractors** for Special Circumstances Subcontracts that equal or exceed \$100,000.00, shall complete and submit all Parts of the Questionnaire and provide it to the Bidder or Proposer for submission by the Bidder or Proposer with the Bid or Proposal.
- f. Certificate of No Change:**

If the Bidder, Proposer or Subcontractor has submitted a Questionnaire, within six months of the present date, and there have been no material changes in the information specified on that Questionnaire, the Bidder/Proposer or Subcontractor shall complete and submit the Certificate of No Change, with the Bid or Proposal, in lieu of completing and submitting any other Parts of the Questionnaire or Paragraphs G and H of the Operating Agreement Bid or Purchase Agreement Bid.

2. **Definitions:**

- A. **Affiliate**: An entity in which the parent of the submitting Proposer owns more than fifty (50) % of the voting stock and/or an entity in which a group of principal owners or officers that owns more than fifty (50) % of the submitting Proposer also owns more than fifty (50) % of the voting stock.
- B. **Authority**: refers to the MTA and/or MTA subsidiary or affiliate to which the Proposer is submitting its bid or proposal and/or which is awarding the Contract sought.
- C. **Control**: The submitting Proposer is controlled by another entity when: (1) the other entity holds ten (10) % or more of the voting stock of the submitting Proposer; or (2) the other entity directs or has the right to direct daily operations. The submitting Proposer controls another entity when: (1) it holds ten (10) % or more of the voting stock of the other entity; or (2) it directs or has the right to direct daily operations.
- D. **Government agency(ies)**: include city, state, federal public agencies, quasi-public agencies, authorities and corporations, public development corporations, public benefit corporations and local development corporations.
- E. **Integrity Monitor**: includes an Independent Private Sector Inspector General (“IPSIG”), or any independent private sector firm with legal, audit, investigative and loss prevention skills, employed by an organization or government entity, either voluntarily or by compulsory process, to monitor an entity’s business activities to ensure compliance with relevant laws and regulations, as well as to uncover and report unethical or illegal conduct within and against the entity, or to assist an entity in strengthening its internal controls, compliance and business ethics.
- F. **Joint Venture**: a business undertaking by two or more persons, corporations or other legal entities engaged in a single defined project. The necessary elements are: (1) an express or implied agreement; (2) a common purpose the group intends to carry out; and (3) shared profits and losses.
- G. **Managerial employees or Managerial Capacity**: Employees in a supervisory capacity who, either by virtue of their title or their duties, operate with discretion over solicitation, letting, or management of contracts with public agencies.
- H. **Metropolitan Transportation Authority (“MTA”) subsidiary or affiliate (Collectively referred to as “MTA Affiliates and Subsidiaries”) includes**: MTA Construction and Development Company (“MTACC”), New York City Transit Authority (“NYCT”), Manhattan and Bronx Surface Transit Operating Authority (“MaBSTOA”), Staten Island Rapid Transit Operating Authority (“SIRTOA”), Triborough Bridge and Tunnel Authority (“TBTA”), Metro-North Commuter Railroad Company (“MNCR”), Long Island Rail Road (“LIRR”), Metropolitan Suburban Bus Authority (“MSBA”), MTA Bus Company (“MTA BC”), and First Mutual Transportation Assurance Company (“FMTAC”).

- I. **Officer:** Any individual who serves as or performs the functions of chief executive officer, chief financial officer, or chief operating officer of the submitting Proposer, without regard to such individual's title. president, vice president, secretary, treasurer, board chairperson, trustee (individual or entity who administers a trust) or their equivalents.
- J. **Parent:** Any entity including, but not limited to any individual, partnership, joint venture or corporation which owns (50) % or more of the voting stock of another entity.
- K. **Principal Owner:** An individual, partnership, joint venture or corporation that holds a ten (10) % or greater ownership interest in a submitting Proposer.
- L. **Proposer:** includes and refers to a Bidder or a Proposer and also refers to the firm awarded the Contract as well as "submitting Contractor" or a "Contractor" seeking subcontracts for \$1 million or more, or seeking subcontracts of \$100,000 or more for Special Circumstances Contracts. The term "Proposer" also refers to the "Subcontractor" that must complete the Questionnaire.
- M. **Proposal:** The term "Proposal" includes the term "Bid".
- N. **Share:** To have space, staff, equipment, expenses, or use such items, in common with one or more other entities.
- O. **Significant Adverse Information:** includes but is not limited to an unsatisfactory final performance evaluation on a Contract with any MTA agency within the immediate prior three (3) years, an uncured interim unsatisfactory rating on a Contract with any MTA agency, or an answer of "yes" to any question in Part IV herein.
- P. **Special Circumstances Contract or Subcontract:** see the definition in Part I.1.e.
- Q. **Subcontractor:** see the definition in Part I.1.d.
- R. **Subsidiary:** An entity in which the majority of the voting stock is owned by a parent.

3. Please state "not applicable" in response to questions clearly not applicable to Proposer (for applicability of questions, see definition of 'Proposer'), in connection with this solicitation. Do not omit any question. If any representation is not accurate and complete at the time Proposer signs this Questionnaire, Proposer must, as part of its Proposal, identify the provision and explain the reason in detail in the space provided below. If additional space is needed, add additional sheet(s) to this Questionnaire. **If this space is left blank, Proposer shall be deemed to have represented and warranted the accuracy and completeness of the representations on this Questionnaire:**

4. All information must be legible.

5. Completed Questionnaire or, if applicable, a Certificate of No Change, must be sworn to by a partner (if partnership), a duly authorized officer or individual (if a corporation), or a principal (if a sole proprietorship).
6. If, at any time prior to award of this Contract or during the performance by the Proposer of this Contract, either of the following occurs, the Proposer shall promptly give notice in writing of the situation to the Authority, to the attention of the appropriate Chief Procurement Officer, and therefore cooperate with the Authority's review and investigation of such information.
- i) Proposer has reason to believe that any representation or answer to any question contained in this Questionnaire was not accurate or complete at the time this Questionnaire was signed; or
 - ii) Events occur or circumstances change so that an answer to any question in the Questionnaire is no longer accurate or complete.
7. In the Authority's sole discretion, the following shall constitute grounds for the Authority to take remedial action up to and including immediate termination of the Contract for convenience without payment for profit and overhead for work not performed if:
- i) Proposer fails to notify the Chief Procurement Officer as required by this paragraph; or
 - ii) Proposer fails to cooperate with the Authority's request for additional information as required by this paragraph; or
 - iii) Proposer, a director, officer, principal, managerial employee or owner of a 10% or more interest in Proposer, is convicted of a crime involving a public contract; or
 - iv) Significant concerns about the Proposer's integrity are raised based upon an evaluation of the events underlying any other determination, indictment, conviction, or other allegation that Proposer or a director, officer, principal, managerial employee or owner of a 10% or more interest in Proposer, is or has been involved in any felony or a misdemeanor related to truthfulness and/or business conduct in the past ten (10) years.
8. The Authority reserves the right to inquire further with respect to Proposer's responses; and Proposer consents to such further inquiry and agrees to furnish all relevant documents and information as requested by the Authority. Any response to this document prior or subsequent to Proposer's Proposal which is or may be construed as unfavorable to Proposer will not necessarily automatically result in a negative finding on the question of Proposer's responsibility or a decision to terminate the Contract if it is awarded to Proposer.

PART II - IDENTITY OF PROPOSER

1. Proposer's Full Legal Name: _____

2. The Proposer represents that it operates as the following form of legal entity: (Check whichever applies and fill in any appropriate blanks.)

☐ an individual or sole proprietorship

☐ a general partnership

☐ a limited partnership

☐ a joint venture consisting of: _____,

and _____

(List all joint venturers on a separate sheet if this space is inadequate.)

☐ a non-profit organization

☐ a corporation organized or incorporated under the laws of the following state or country:

_____ on the following date: _____

3. Proposer's federal taxpayer identification number: _____

4. Proposer's legal address: _____

Telephone Number: (____) _____ Fax Number: (____) _____

Mobile Number: (____) _____ Email: _____

5. Proposer's local or authorized point of contact address:

Name: _____ Title: _____

Address: _____

Telephone Number: (____) _____ Fax Number: (____) _____

Cell Number: (____) _____ Email: _____

6. a. If Proposer is a corporation, has a Certificate of Incorporation been previously filed with MTA Construction and Development Company? YES ☐ NO ☐
If "NO," attach a certified copy.
- b. Attach a certified copy of the By-Laws and Resolution of the Corporation giving the names and titles of the corporate officers other than President, as well as non-officer employees, who are authorized to sign contracts, bonds, bills of sale and other legal instruments in connection with the Contract, if the same have not been previously filed.
- c. If a foreign corporation, has proof of authority to transact business in the State of New York been previously filed with MTA Construction and Development Company? YES ☐ NO ☐

If "NO," attach proof of such authority.

In the event that any of Proposer's previous submissions to the Authority in response to the above (questions a-c) no longer represent the Proposer's current corporate status, Proposer must attach a certified copy of any documents amending its previous submissions.

7. a. How long has the Proposer been in business? _____
- b. Have Proposer's major shareholders, officers or principals been in business under another name? If so, identify name and dates used. _____
- c. How many years' experience as a prime contractor/consultant? _____
- d. How many years' experience as a subcontractor/subconsultant? _____

8. List below the names, business addresses, titles, and telephone numbers of the following people: if a corporation, identify the president, executive officers, and any other officers directly responsible for this Proposal; if a partnership, identify the partners directly responsible for this Proposal; or, if another form of business entity, identify the principals directly responsible for this Proposal.

<u>Name</u>	<u>Address</u>	<u>Title</u>	<u>Telephone No.</u>

9. If your firm considers itself to be a Minority Business Enterprise (“MBE”), Women-Owned Business Enterprise (“WBE”) or Disadvantaged Business Enterprise (“DBE”), then within the past three (3) years has the Proposer had any MBE, WBE, or DBE certification (or application for such certification) revoked or, if you made application for such certification during such period was same denied?

YES ☐ NO ☐

If answer is “YES,” explain:

PART III-PROPOSER'S REPRESENTATIONS

1. Statement of non-collusion as required by Section 2878 of the Public Authorities Law of the State of New York:

By submission of this Proposal, the undersigned, and each person signing on behalf of the undersigned, certifies, and in the case of a joint proposal each party thereto certifies, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

- a. the prices in this Proposal have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor;
- b. unless otherwise required by law, the prices which have been quoted in this Proposal have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by the undersigned prior to opening, directly or indirectly, to any other proposer or to any competitor;
- c. no attempt has been or will be made by the Proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition;

A Proposal shall not be considered for award nor shall any award be made where a, b, and c, above, have not been complied with provided, however, that if in any case the Proposer cannot make the foregoing certification, the Proposer shall so state and shall furnish with the Proposal a signed and notarized statement which sets forth in detail the reasons therefor. Where a, b, and c, above, have not been complied with, the Proposal shall not be considered for award nor shall any award be made unless the Vice President, Division of Materiel, of the Authority, or his/her designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a Proposer (i) has published price lists, rates, or tariffs covering items being procured; (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items; or (iii) has sold the same items to other customers at the same prices being proposed, does not constitute, without more, a disclosure within the meaning of a, b, and c above.

2. Statement of no-conflict of interest:

- a. No appointed or elected official, member or other officer or employee of the City or State of New York, or of the Metropolitan Transportation Authority ("MTA"), or MTA Affiliates and Subsidiaries: i) is interested directly or indirectly, in any manner whatsoever in or in the performance of the Contract or in the supplies, work or business to which it relates or in any portion of the profits thereof; or ii) has been or will be offered or given any tangible consideration in connection with this Proposal/Contract.
- b. Proposer covenants that neither Proposer nor, to the best of the Proposer's knowledge after diligent inquiry, any director, officer, owner or employee of the Proposer, or any person or entity with a 10% or more interest in Proposer, has any interest nor shall they acquire any interest, directly or indirectly, which would conflict in any manner or degree with the faithful performance of the Contract hereunder.

c. In the event Proposer has no prior knowledge of a conflict of interest as set forth in “a” and “b” above and hereafter acquires information which indicates that there may be an actual or apparent violation of any of the above, Proposer shall promptly bring such information to the attention of the Authority’s appropriate chief procurement officer (“Chief Procurement Officer”), Proposer shall thereafter cooperate with the Authority’s review and investigation of such information, and comply with any instruction it receives from the Chief Procurement Officer in regard to remedying the situation.

3. The following statements apply to any proposal or contract between Proposer and the City or State of New York, any other state, any public authority or other public entity, the United States government, the MTA and MTA Affiliates and Subsidiaries. **For all questions, matters on appeal must be disclosed. Unless otherwise noted, all questions relate to the previous ten (10) years.**

a. Statements b, c, d, e, f, g, h, i, j and k below apply to: i) Proposer, Proposer’s parent, subsidiaries and affiliates (if any) of Proposer; ii) any joint venture (including its individual members) and any other form of partnership (including its individual members) which includes Proposer or Proposer’s parent, subsidiaries, or affiliates of Proposer; iii) Proposer’s directors, officers, principals, managerial employees and any person or entity with a 10% or more interest in Proposer; iv) any legal entity controlled, or 10% or more of which is owned, by Proposer, or by any director, officer, principal or managerial employee of Proposer, or by any person or entity with a 10% or more interest in Proposer; or v) any parent, subsidiary or affiliate of any legal entity controlled, or 10% or more of which is owned, by Proposer, or by any director, officer, principal or managerial employee of Proposer, or any person or entity with a 10 % or more interest in Proposer.

Check “YES” or “NO,” as appropriate to the following questions:

b. Within the past five (5) years, has the Proposer been declared not responsible? YES ☐ NO ☐

c. Has the Proposer been debarred, suspended, or otherwise disqualified from bidding, proposing, or contracting? YES ☐ NO ☐

d. Is there a proceeding pending relating to Proposer’s responsibility debarment, suspension, or qualification to receive a public contract? YES ☐ NO ☐

e. Within the past five (5) years, has Proposer defaulted on a contract or been terminated for cause? YES ☐ NO ☐

f.. Has a government agency or other public entity requested or required enforcement of any of its rights under a surety agreement on the basis of the Proposer default or in lieu of declaring Proposer in default? YES ☐ NO ☐

g. Within the past five (5) years, has the Proposer been required to engage the services of an Integrity Monitor, in connection with the award of, or in order to complete any public or private contract? YES ☐ NO ☐

h. Within the past five (5) years, have Proposer's safety practices/procedures been evaluated and ruled as less than satisfactory by the City or State of New York, any other state, any public authority or any public entity, the United States government, the MTA, MTA affiliates or subsidiaries? YES ☐

YES ☐ NO ☐

i. Has Proposer's Workers Compensation Experience Rating been 1.2 or greater at any time in the last five (5) years?

YES ☐ NO ☐

j. List the name and business address of each person or legal entity which has a 10% or more ownership or control interest in Proposer (attach additional pages as needed).

k. Explain any “YES” answers to b, c, d, e, f, g, h, i and j in the space provided below (attach additional pages as needed and **indicate below if additional pages have been attached**).

[illegible]

PART IV - QUESTIONS WHICH MUST BE ANSWERED “YES” OR “NO”

(In the event of a “YES,” the Authority reserves the right to inquire further with respect thereto. **Unless otherwise noted, all questions relate to the previous ten (10) years.**)

To the best of your knowledge after diligent inquiry, in connection with the business of Proposer or any other firm which is related to Proposer by any degree of common ownership, control, or otherwise, do any of the following statements apply to: i) Proposer, Proposer's parent, subsidiaries and affiliates of Proposer (if any); ii) any joint venture (including its individual members) and any other form of partnership (including its individual members) which includes Proposer or Proposer's parent, subsidiaries, or affiliates of Proposer; iii) Proposer's directors, officers, principals, managerial employees, and any person or entity with a 10% or more interest in Proposer; iv) any legal entity controlled, or 10% or more of which is owned, by Proposer, or by any director, officer, principal, managerial employee of Proposer, or by any person or entity with a 10% or more interest in Proposer:

Check “YES” or “NO,” as appropriate to the following questions:

1. Has been convicted of or pleaded nolo contendere to (A) any felony or (B) a misdemeanor related to truthfulness in connection with business conduct. YES ☐ NO ☐
2. Have pending before any state or federal grand jury or court an indictment or information of the commission of a crime which has not been favorably terminated. YES ☐ NO ☐
3. Is the subject of any pending investigation by any grand jury, commission, committee or other entity or agency or authority of any local, state or the federal government in connection with the commission, or alleged commission, of a crime. YES ☐ NO ☐
4. Is currently disqualified from selling or submitting bids/proposals to or receiving awards from or entering into any contracts with any federal, state or local governmental entity, any public authority or any other public entity. YES ☐ NO ☐
5. Within the past five (5) years, has refused to testify or to answer any question concerning a bid or contract with any federal, state, or local government agency, any public authority or any other public entity when called before a grand jury or other committee, agency or forum which is empowered to compel the attendance of witnesses and examine them under oath, upon being advised that neither the person's statement nor any information or evidence derived from such statement will be used against that person in any subsequent criminal proceeding. YES ☐ NO ☐
6. Is currently disqualified from selling or submitting a bid to, or receiving an award from, or entering into any contract with any public entity or public authority within the State of New York because, within the past five (5) years, such entity or person refused to testify or to answer any relevant question concerning a transaction or contract with the State of New York, any political subdivision of the State of New York, or a public authority or a public department, agency or official of the

State of New York or of a political subdivision of the State of New York, when called before a grand jury or other state or local department, commission or agency which is empowered to compel the attendance of witnesses and examine them under oath, upon being advised that neither that person’s statement nor any information or evidence derived from such statement will be used against that person in any subsequent criminal proceeding.

YES ☐ NO ☐

7. Has within the ten (10) year period preceding this Bid/Proposal been convicted of or had a civil judgment rendered against it for or in relation to: (i) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; (ii) collusion with another person or entity in connection with the submission of bids/proposals; (iii) violation of Federal or State antitrust statutes, or False Claims Acts, or (iv) commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

YES ☐ NO ☐

8. Explain any “YES” answers to 1, 2, 3, 4, 5, 6 or 7, in the space provided below (attach additional pages as needed and **indicate below if additional pages have been attached**).

PART V-ADDITIONAL QUESTIONS

1. List the name, title and home and business address of each person or legal entity which has a 10% or more ownership, or control interest in Proposer.

Name:

Title:

Home address:

Business address:

Name:

Title:

Home address:

Business address:

Name:

Title:

Home address:

Business address:

Name:

Title:

Home address:

Business address:

Name:

Title:

Home address:

Business address:

Name:

Title:

Home address:

Business address:

Name:

Title:

Home address:

Business address:

Name:

Title:

Home address:

Business address:

Name:

Title:

Home address:

Business address:

Name:

Title:

Home address:

Business address:

2. List the name, title and home and business address of each director and principal officer of Proposer.

Name:

Title:

Home address:

Business address:

Name:

Title:

Home address:

Business address:

Name:

Title:

Home address:

Business address:

Name:

Title:

Home address:

Business address:

Name: _____

Title: _____

Home address: _____

Business address:

Name: _____

Title: _____

Home address: _____

Business address:

Name: _____

Title:

Home address:

Business address:

Name: _____

Title: _____

Home address:

Business address:

Name: _____

Title: _____

Home address:

Business address:

Name: _____

Title: _____

Home address: _____

Business address:

3. In the past ten (10) years has Proposer entered into a consent decree, deferred prosecution agreement, or a non-prosecution agreement? YES ☐ NO ☐

4. In the past three (3) years, has Proposer been a subcontractor on any contract with the Authority?
(If YES, provide list of contracts, below) YES ☐ NO ☐

5. In the past seven (7) years, have any bankruptcy proceedings been initiated by or against the Proposer (whether or not closed) or is any bankruptcy proceeding pending by or against the Proposer regardless of the date of filing? YES ☐ NO ☐

6. In the past five (5) years, have there been any judgments, injunctions, or liens of \$100,000 or more, including but not limited to, judgments based on taxes owed, fines and penalties assessed by a government agency against Proposer at any time? YES ☐ NO ☐

7. Are there any judgments, injunctions, or liens for \$100,000 or more each against Proposer that remain open, unsatisfied or in effect today? YES ☐ NO ☐

8. During the past five (5) years, has the Proposer failed to file any applicable federal, state or local tax return? YES ☐ NO ☐

9. Does the Proposer own or rent office space? (Provide details, below) YES ☐ NO ☐

10. Explain any "YES" answers to 3, 4, 5, 6, 7, 8 or 9, in the space provided below (attach additional pages as needed and **indicate below if additional pages have been attached**).

11. Does any principal owner or officer of the Proposer, or any member of his/her immediate family, have an ownership interest in any entity that holds the title or lease to any real property used by the Proposer? YES ☐ NO ☐

12. Does Proposer share office space, staff equipment, or expenses with other entities? YES ☐ NO ☐

If "YES", please provide details.

13. Proposer is required to provide a list of contracts as requested in questions (A) through (E) below. For each of the contracts listed in response to questions (A) through (E) below, Proposer shall provide a brief description of the work performed, or to be performed; the contract number, the

dollar amount of the contract at award and at completion, or if the contract is not completed, the dollar amount of the remaining work; if the contract has been completed, the date it was completed, and the name, title and telephone number of the owner's principal representative:

- (A) List all Proposer's outstanding bids or proposals for contracts (i.e., bids or proposals pending where no contract has yet been awarded) with the State or City of New York, or any other public authority of the State of New York, or the MTA and MTA Affiliates and Subsidiaries, or any public entity outside New York, where the bid or proposal is or will be managed by the Proposer's office as listed in answer to question 5 of Part II. If none, state "None." If yes, please list each such bid or proposal and provide the following information – if there are more than three, attach additional sheets:

(1) Name of Requesting Agency: _____
Contract number: _____
Dollar amount of bid or proposal: _____
Date of bid or proposal: _____
Brief description of the work to be performed: _____
Status of the bid or proposal _____
Bid/Proposal submitted by Proposer as prime contractor or joint venture? _____
Name/Telephone number of owner's representative: _____

(2) Name of Requesting Agency: _____
Contract number: _____
Dollar amount of bid or proposal: _____
Date of bid or proposal: _____
Brief description of the work to be performed: _____
Status of the bid or proposal _____
Bid/Proposal submitted by Proposer as prime contractor or joint venture? _____
Name/Telephone number of owner's representative: _____

(3) Name of Requesting Agency: _____
Contract number: _____
Dollar amount of bid or proposal: _____
Date of bid or proposal: _____
Brief description of the work to be performed: _____
Status of the bid or proposal _____
Bid/Proposal submitted by Proposer as prime contractor or joint venture? _____
Name/Telephone number of owner's representative: _____

- (B) Has the Proposer been awarded any contracts by the State or City of New York, or any public authority of the State of New York, or MTA and MTA Affiliates and Subsidiaries, or any public entity outside New York, where the contract work is being managed by the Proposer's office as listed in answer to question 5 of Part II, where the work has not yet completed? If none, state "None." If yes, provide the following information. Proposer need not provide more than six such descriptions.

(1) Name of Contracting Entity: _____
Contract number: _____
Brief description of the work to be performed: _____

Contract Period _____
Status of the contract _____
Awarded to Proposer as prime contractor or joint venture? _____
Name/Telephone number of owner's representative: _____

(2) Name of Contracting Entity: _____
Contract number: _____
Brief description of the work to be performed: _____
Contract Period _____
Status of the contract _____
Awarded to Proposer as prime contractor or joint venture? _____
Name/Telephone number of owner's representative: _____

(3) Name of Contracting Entity: _____
Contract number: _____
Brief description of the work to be performed: _____
Contract Period _____
Status of the contract _____
Awarded to Proposer as prime contractor or joint venture? _____
Name/Telephone number of owner's representative: _____

(4) Name of Contracting Entity: _____
Contract number: _____
Brief description of the work to be performed: _____
Contract Period _____
Status of the contract _____
Awarded to Proposer as prime contractor or joint venture? _____
Name/Telephone number of owner's representative: _____

(5) Name of Contracting Entity: _____
Contract number: _____
Brief description of the work to be performed: _____
Contract Period _____
Status of the contract _____
Awarded to Proposer as prime contractor or joint venture? _____
Name/Telephone number of owner's representative: _____

(6) Name of Contracting Entity: _____
Contract number: _____
Brief description of the work to be performed: _____
Contract Period _____
Status of the contract _____
Awarded to Proposer as prime contractor or joint venture? _____
Name/Telephone number of owner's representative: _____

(C) Does the Proposer have any current uncompleted private sector projects? If none, state "None."
If yes, provide the following information, beginning with the most recent. Proposers need not provide more than six such descriptions.

- (1) Name and address of Owner: _____
Contract number: _____
Brief description of the work to be performed: _____
Contract Period _____
Status of the contract _____
Awarded to Proposer as prime contractor or joint venture? _____
Name/Telephone number of owner's representative: _____
- (2) Name and address of Owner: _____
Contract number: _____
Brief description of the work to be performed: _____
Contract Period _____
Status of the contract _____
Awarded to Proposer as prime contractor or joint venture? _____
Name/Telephone number of owner's representative: _____
- (3) Name and address of Owner: _____
Contract number: _____
Brief description of the work to be performed: _____
Contract Period _____
Status of the contract _____
Awarded to Proposer as prime contractor or joint venture? _____
Name/Telephone number of owner's representative: _____
- (4) Name and address of Owner: _____
Contract number: _____
Brief description of the work to be performed: _____
Contract Period _____
Status of the contract _____
Awarded to Proposer as prime contractor or joint venture? _____
Name/Telephone number of owner's representative: _____
- (5) Name and address of Owner: _____
Contract number: _____
Brief description of the work to be performed: _____
Contract Period _____
Status of the contract _____
Awarded to Proposer as prime contractor or joint venture? _____
Name/Telephone number of owner's representative: _____
- (6) Name and address of Owner: _____
Contract number: _____
Brief description of the work to be performed: _____
Contract Period _____
Status of the contract _____
Awarded to Proposer as prime contractor or joint venture? _____
Name/Telephone number of owner's representative: _____

- (D) List all contracts completed during the last three (3) years. If more than three (3) contracts have been completed in the past three (3) years, list the last three (3) contracts completed.

(1) Brief description of work performed: _____

Contract number: _____

Dollar amount of award: _____

Date completed: _____

Name/Telephone number of owner's representative: _____

Dollar amount at completion: _____

(2) Brief description of work performed: _____

Contract number: _____

Dollar amount of award: _____

Date completed: _____

Name/Telephone number of owner's representative: _____

Dollar amount at completion: _____

(3) Brief description of work performed: _____

Contract number: _____

Dollar amount of award: _____

Date completed: _____

Name/Telephone number of owner's representative: _____

Dollar amount at completion: _____

- (E) List each contract completed by Proposer during the last three (3) years for which liquidated damages or penalty provisions were assessed against Proposer for failure to complete the work on time or for any other reason. Proposer is required to provide an explanation of the circumstances for each contract.

(1) Brief description of work performed: _____

Contract number: _____

Dollar amount of award: _____

Date completed: _____

Name/Telephone number of owner's representative: _____

Dollar amount at completion: _____

(2) Brief description of work performed: _____

Contract number: _____

Dollar amount of award: _____

Date completed: _____

Name/Telephone number of owner's representative: _____

Dollar amount at completion: _____

(3) Brief description of work performed:_____

Contract number:_____

Dollar amount of award:_____

Date completed:_____

Name/Telephone number of owner's representative: _____

Dollar amount at completion: _____

If none of the above situations occurred during the last three (3) years, state "NONE" here: _____

14. Furnish the following information for each contract for which, during the last three (3) years, the Proposer was:

- (A) Terminated for default; or
- (B) Sued to compel performance; or
- (C) Sued to recover damages, including, without limitation, upon an alleged breach of contract, misfeasance, error or omission or other alleged failure on Proposer's part to perform as required by the contract; or
- (D) Called upon a surety to perform the work; or
- (E) Required to engage the services of an Integrity Monitor in connection with the award of or in order to complete, any public or private contract; or
- (F) Required to draw on a letter of credit in lieu of performance bond.

(1) Brief description of work performed:_____

Contract number:_____

Dollar amount of award:_____

Date completed:_____

Name/Telephone number of owner's representative _____

(2) Brief description of work performed:_____

Contract number:_____

Dollar amount of award:_____

Date completed:_____

Name/Telephone number of owner's representative _____

If none of the above situations occurred during the last three (3) years, state "NONE" here:_____

15. List all Proposer's employees: (Attach additional sheets as needed)

(A) Who are current employees of MTA or any MTA subsidiary or affiliate:

Name: _____

Currently employed by: (check as appropriate)

MTA ☐ NYCT ☐ MaBSTOA ☐ SIRTOA ☐ MNCR ☐
LIRR ☐ MSBA ☐ TBTA ☐ MTACC ☐ MTA BC ☐

Name: _____

Currently employed by: (check as appropriate)

MTA ☐ NYCT ☐ MaBSTOA ☐ SIRTOA ☐ MNCR ☐
LIRR ☐ MSBA ☐ TBTA ☐ MTACC ☐ MTA BC ☐

Name: _____

Currently employed by: (check as appropriate)

MTA ☐ NYCT ☐ MaBSTOA ☐ SIRTOA ☐ MNCR ☐
LIRR ☐ MSBA ☐ TBTA ☐ MTACC ☐ MTA BC ☐

(B) Who within the past two (2) years have been MTA or any MTA subsidiary or affiliate employees who were involved on behalf of Proposer with the preparation of this bid/proposal or would be involved in the performance of the Contract if it is awarded to Proposer.

Name: _____

Currently employed by: (check as appropriate)

MTA ☐ NYCT ☐ MaBSTOA ☐ SIRTOA ☐ MNCR ☐
LIRR ☐ MSBA ☐ TBTA ☐ MTACC ☐ MTA BC ☐

Name: _____

Currently employed by: (check as appropriate)

MTA ☐ NYCT ☐ MaBSTOA ☐ SIRTOA ☐ MNCR ☐
LIRR ☐ MSBA ☐ TBTA ☐ MTACC ☐ MTA BC ☐

16. Does Proposer have a subsidiary or affiliate? YES ☐ NO ☐

17. Is Proposer a subsidiary of another entity? YES ☐ NO ☐

18. Within the past five (5) years or currently, does Proposer, any director, officer, principal, managerial employee of Proposer, or any person or entity with a 10% or more interest in Proposer have an interest of 10% or more in any other firm or legal entity? YES ☐ NO ☐

19. If the answer to 16, 17 or 18 is “YES,” would Proposer’s answers pertaining to Part V Questions 1 through 14 above be the same for each such parent, subsidiary, affiliate, firm or legal entity? If not, please provide a full explanation below and attach additional sheets as necessary. **Indicate if additional sheets are attached.** YES ☐ NO ☐

20. List the names, titles and attach resumes which indicate the record of skill and experience of your proposed project management team, including key people such as the project manager, the safety engineer and the quality engineer. (see Specifications or the Scope of Work for the functions of the project management team, as applicable, and other requirements in regard to project management.)

21. Which of the individuals named in question 20, above, will be utilized exclusively on this Contract on a full-time basis? (The Specification or the Scope of Work may indicate requirements for certain dedicated staff.)

22. Which of the individuals named in question 20, above, are not presently officers, partners, owners or employees of the firm?

23. Describe the resources, including but not limited to, staffing, facilities, equipment, and tools that Proposer will commit to the performance of this Contract. If this information is provided elsewhere in Proposer's bid/proposal, please enter below the reference to that section in Proposer's submission that responds to this question. If not provided elsewhere, provide information below and attach additional sheets as necessary. **Indicate if additional sheets are attached.**

See Section:

24. a. If any professional or other licenses, permits, or certifications are required to perform the work/services called for by this solicitation, list the license, permit, or certification that the Proposer or Proposer's employees or agents possess. If none, state "None."

<u>License or Permit or Certification</u>	<u>Name of Holder</u>	<u>Issuing State or Entity</u>

b. Have any of the Proposer's officers, partners, owners, managers or employees had any project related licenses, permits or certifications revoked or suspended in the past three years?

YES ☐ NO ☐

If "YES," explain details below.

PART VI - FINANCIAL

1. Provide certified financial statements for the last three (3) fiscal years. If certified financial statements are not available, provide financial statements sworn to by the firm's Chief Financial Officer. If Proposer is unable to provide any such statements, provide other information, which will enable the Authority to evaluate and determine whether Proposer has sufficient financial resources to enable Proposer to perform the Contract.
2. The Proposer may submit its prior three (3) years' financial statements in lieu of completing Section 1 (Balance Sheet), Section 2 (Comparative Statement of Income & Retained Earnings), and Section 3 (Comparative Statements of Cash Flows). However, Section 1, Schedules A, B, C, D, E and F and Sections 4, 6 and 7 must be completed. If the Proposer is required to submit a performance bond, Section 5 must also be completed.

SECTION 1

COMPARATIVE BALANCE SHEET

as of _____

	(\$000)	20____	20____	20____
		\$	\$	\$
I. <u>CURRENT ASSETS</u>				
Cash		_____	_____	_____
Marketable Securities		_____	_____	_____
Notes Receivable (Schedule A)		_____	_____	_____
Accounts Receivable (Schedule B)		_____	_____	_____
Bid Deposits (Schedule C)		_____	_____	_____
Inventories		_____	_____	_____
Prepaid Expenses		_____	_____	_____
Other Current Assets:		_____	_____	_____
_____		_____	_____	_____
_____		_____	_____	_____
_____		_____	_____	_____
TOTAL CURRENT ASSETS		\$ _____	\$ _____	\$ _____
II. <u>OTHER ASSETS:</u>				
Investment in Affiliates		\$ _____	\$ _____	\$ _____
Other Non-Current Assets:		_____	_____	_____
_____		_____	_____	_____
_____		_____	_____	_____
_____		_____	_____	_____
TOTAL OTHER ASSETS:		\$ _____	\$ _____	\$ _____
III. <u>PROPERTY, PLANT & EQUIPMENT:</u>				
NET PROPERTY, PLANT & EQUIPMENT				
(Net of Depreciation)		\$ _____	\$ _____	\$ _____
TOTAL ASSETS		\$ _____	\$ _____	\$ _____

SECTION 1 (continued)**LIABILITIES**

	(\$000)	20__	20__	20__
		\$	\$	\$
I. <u>CURRENT LIABILITIES ASSETS</u>				
Notes Payable (Schedule D)		_____	_____	_____
Accounts Payable (Schedule E)		_____	_____	_____
Loans Payable (Schedule F)		_____	_____	_____
Taxes Payable		_____	_____	_____
Current Portion of Long Term Debt		_____	_____	_____
Accrued Liabilities		_____	_____	_____
Other Current Liabilities:		_____	_____	_____
_____		_____	_____	_____
_____		_____	_____	_____
_____		_____	_____	_____
TOTAL CURRENT LIABILITIES		\$ _____	\$ _____	\$ _____
II. <u>NON-CURRENT LIABILITIES</u>				
Long Term Debt		\$ _____	\$ _____	\$ _____
Other:				
_____		_____	_____	_____
_____		_____	_____	_____
_____		_____	_____	_____
TOTAL NON-CURRENT LIABILITIES		\$ _____	\$ _____	\$ _____
TOTAL LIABILITIES		\$ _____	\$ _____	\$ _____
III. <u>EQUITY</u>				
Capital Stock Paid Up:				
Common		\$ _____	\$ _____	\$ _____
Preferred		\$ _____	\$ _____	\$ _____
Surplus (net worth)		\$ _____	\$ _____	\$ _____
TOTAL EQUITY		\$ _____	\$ _____	\$ _____
TOTAL LIABILITIES AND EQUITY		\$ _____	\$ _____	\$ _____

SECTION 1 (continued)**DETAILS RELATIVE TO LIABILITIES****SCHEDULE D**

Notes Payable	(a) Not Past Due _____ \$ _____		
	(b) Past Due _____ \$ _____		
To Whom: Name	Purpose	When Due	Amount
			\$
TOTAL			\$

SCHEDULE E

Accounts Payable	(a) Not Past Due _____ \$ _____		
	(b) Past Due _____ \$ _____		
To Whom: Name	Purpose	Date Payable	Amount
			\$
TOTAL			\$

SCHEDULE F

Loans Payable	(a) Not Past Due _____ \$ _____		
	(b) Past Due _____ \$ _____		
To Whom: Name	Purpose	Date Payable	Amount
			\$
TOTAL			\$

SECTION 2

COMPARATIVE STATEMENT OF INCOME & RETAINED EARNINGS STATEMENT FOR PERIODS ENDED _____

	20__	20__	20__
SALES	\$ _____	\$ _____	\$ _____
Less:			
COST OF SALES			
Labor	_____	_____	_____
Material	_____	_____	_____
Depreciation	_____	_____	_____
Other Overhead	_____	_____	_____
GROSS MARGIN	\$ _____	\$ _____	\$ _____
Less: Selling, General and Administrative Expenses	\$ _____	\$ _____	\$ _____
Income Before Taxes	\$ _____	\$ _____	\$ _____
Less: Income Taxes	\$ _____	\$ _____	\$ _____
NET INCOME	\$ _____	\$ _____	\$ _____
Retained Earnings Beginning of Period	\$ _____	\$ _____	\$ _____
Less:			
Cash Dividends Paid	\$ _____	\$ _____	\$ _____
Other:	\$ _____	\$ _____	\$ _____
Net Retained Earnings End of Period	\$ _____	\$ _____	\$ _____

SECTION 3

COMPARATIVE STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED _____

	Increase (Decrease) in Cash		
	20____	20____	20____
Cash flows from operating activities:	\$ _____	\$ _____	\$ _____
Cash received from customers	_____	_____	_____
Cash paid to suppliers and employees	_____	_____	_____
Interest paid	_____	_____	_____
Income taxes paid	_____	_____	_____
Miscellaneous receipts (payments)	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Net cash provided by operating activities	\$ _____	\$ _____	\$ _____
Cash flows from investing activities:	_____	_____	_____
Proceeds from sale of equipment	_____	_____	_____
Payments for purchase of equipment	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Net cash used in investing activities	\$ _____	\$ _____	\$ _____
Cash flows from financing activities:	_____	_____	_____
Net increase in short-term debt	_____	_____	_____
Proceeds from issuance of long-term debt	_____	_____	_____
Repayment of long-term debt	_____	_____	_____
Payment of dividends	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Net cash provided by (used in) financing activities	\$ _____	\$ _____	\$ _____
Net increase (decrease) in cash	\$ _____	\$ _____	\$ _____
Cash at beginning of year	\$ _____	\$ _____	\$ _____
Cash at end of year	\$ _____	\$ _____	\$ _____

SECTION 4 – IDENTITY OF OWNERS

Who are the principal owners/shareholders of the business entity and what percentage (approx.) does each own?

Name	Percent Owned

SECTION 5 – PERFORMANCE BOND INFORMATION

Section 5 is only applicable to solicitations in which the Proposer is required to provide a performance bond.

Names and addresses of bonding company or companies that have agreed to furnish the performance bond required by the Contract.

Name	Address	Amount	Expiration Date
		\$	

SECTION 6 - SUBCONTRACTS

What parts of this Contract, if any, does Proposer expect to subcontract?

Name and Address of Proposed Subcontractor(s)	Portion of Work	Estimated Dollar Value of Work

SECTION 7 - CERTIFICATION

I certify that the attached financial statements for this Proposal properly reflect the financial position of the company for the periods indicated on the financials.

Chief Financial Officer

Date

**PART VII – QUESTIONNAIRE EXECUTION, VERIFICATION AND
ACKNOWLEDGMENT**

(Complete and submit this Affidavit and Acknowledgment unless the Certificate of No Change applies.)

Bidder/Proposer must sign here: _____

Date: _____

STATE OF _____)
) ss.:
COUNTY OF _____)

On the _____ day of _____, 20____, before me personally came and appeared _____ by me known to be said person, who swore under oath as follows:

1. He/she is _____ of _____
(Print title) (Print name of firm)
2. He/she is duly authorized to sign this Questionnaire on behalf of said firm and duly signed this document pursuant to said authorization.
3. The answers to the questions set forth in this Questionnaire and except as set forth in the stated exceptions in Part III, Proposer's Representations, the representations set forth in this Questionnaire, are true, accurate and complete. I authorize the MTA to verify any such information and to conduct any background checks it deems appropriate.
4. He/she acknowledges and understands that this Questionnaire includes additional conditions and obligations on the Contractor and rights in favor of MTA Capital Construction Company, which are deemed included in the Contract if awarded to the firm.

Sworn to and subscribed to before me this _____ day of _____, 20____

(Notary Public)

Notary Public _____ County

My Commission expires: _____

SCHEDULE VI-A – CONTRACT-SPECIFIC RESPONSIBILITY FORM

This form is to be submitted after Contractor is notified that it is the low bidder, or has otherwise been selected for a contract award, or as directed by MTA. Significant Subcontractors that are proposed to work on the contract referenced below are also required to complete this form. A Significant Subcontractor is defined as: subcontracts in which the subcontractor is proposed to perform work (i) valued at \$1 million or more and more than 10% of the prime contract value; or (ii) valued at \$5 million or more; or (iii) in Special Circumstances subcontracts of \$100,000 or more.

Contract #: _____ (the “Contract”).

Contractor/Subcontractor name: _____

If Subcontractor, provide prime Contractor name: _____

1. TECHNICAL RESOURCES

Attach an explanation that will assist the MTA in determining whether Contractor or Significant Subcontractor have the necessary technical resources to perform the Contract work. Please include information relating to staffing, facilities, equipment, and tools that Contractor or Significant Subcontractor will commit to the performance of this Contract. If this information has already been provided elsewhere, please note the section of the bid/proposal that is responsive.

See Section: _____

Please check this box if a separate sheet providing an explanation is attached. ☐

2. LICENSES

Please list any licenses, permits, or certifications that Contractor or Significant Subcontractor or your employees hold that may be relevant to this Contract. If the license, permit or certification has been revoked or suspended, please state so and explain the details.

License/Permit/Certification	Name of Holder	Issuing State or Entity

3. Have any of Contractor or Significant Subcontractor officers, partners, owners, managers, or employees had any (irrespective of whether they are contract specific) licenses, permits, or certifications revoked or suspended in the past three years? If “Yes”, explain details below (or attach a separate sheet).

4. PERFORMANCE BOND INFORMATION

(This section is only applicable to solicitations in which the Contractor is required to provide a performance bond. This section is not applicable to Significant Subcontractors.)

Provide the names and addresses of the surety or sureties that will provide the performance bond required by this Contract.

Name	Address	Amount

5. SUBCONTRACTS

(This section is not applicable to Significant Subcontractors.)

Which portions of this Contract, if any, does Contractor expect to subcontract? Attach an additional sheet if necessary. If subcontractors are not currently identified, you may insert TBD in the cell titled, Name and Address of Proposed Subcontractor(s).

Name and Address of Proposed Subcontractor(s)	Portion of Work	Estimated \$ Value of Work

6. PRIOR MTA EMPLOYEES

List all employees of the Contractor who are or have been MTA or any MTA subsidiary or affiliate employees who were involved on behalf of Contractor or any subcontractor (including but not limited to Significant Subcontractors) with the preparation of the bid/proposal for the Contract or would be involved in the performance of the Contract if it is awarded to Contractor.

Name: _____

Previously or currently employed by: (check as appropriate)

MTA ☐ NYCT ☐ MaBSTOA ☐ SIRTOA ☐ MNR ☐ LIRR ☐
TBTA ☐ MTAC&D ☐ MTA BC ☐

Name: _____

Previously or currently employed by: (check as appropriate)

MTA ☐ NYCT ☐ MaBSTOA ☐ SIRTOA ☐ MNR ☐ LIRR ☐
TBTA ☐ MTAC&D ☐ MTA BC ☐

Contractors and subcontractors are reminded that Section 73 of the Public Officers Law and the MTA Vendor Code of Ethics place strict limitations on former MTA employees being employed by or receiving compensation from MTA Contractors, Subcontractors, bidders or proposers.

7. FINANCIAL INFORMATION

(This section is not applicable to Significant Subcontractors.)

Contractor confirms that it has submitted certified copies of its financial statements for the past three (3) fiscal years and the Financial Responsibility Data Workbook to the Document Repository. If Contractor does not have certified financial statements, it should provide financial statements sworn to by Contractor's Chief Financial Officer, along with any other relevant information that will assist the MTA in evaluating and determining whether the contractor has sufficient financial resources to perform the Contract.

CERTIFICATION

I am duly authorized to sign this Schedule VI-A on behalf of the Contractor or Significant Subcontractor and affirm that the information contained in this document is true, accurate and complete. I authorize the MTA to verify the information contained in this schedule and to conduct any background checks or other investigations it deems appropriate.

I understand and agree that typing my name or attaching a digital signature in the space below will have the same force and legally binding effect as my original handwritten signature.

Name: _____

Title: _____

By: _____ Date: _____
Signature

SCHEDULE VII – NYS CERTIFICATION OF RESTRICTIONS ON LOBBYING

All procurements by MTA C&D in excess of \$15,000 annually are subject to New York State's State Finance Law Sections 139-j and 139-k, effective January 1, 2006 ("Lobbying Law").

Pursuant to the Lobbying Law, all "contacts" (defined as oral, written or electronic communications with MTA C&D intended to influence a procurement) during a procurement must be made with the designated Point of Contact only. Exceptions to this rule include written questions during the bid process, communications with regard to protests, contract negotiations and RFP conference participants. Nothing in the Lobbying Law inhibits any rights to make an appeal, protest or complaint under existing administrative or judicial procedures.

Violations of the policy regarding permissible contacts must be reported to the appropriate MTA C&D officer and investigated accordingly. First violation may result in a determination of non-responsibility and ineligibility for award to the violator and its subsidiaries, affiliates and related entities. The penalty for a second violation within four (4) years is ineligibility for bidding/proposing on a procurement and/or ineligibility from being awarded any contract for a period of four (4) years. MTA C&D will notify the New York State Office of General Services ("OGS") of any determinations of non-responsibility or debarments due to violations of the Lobbying Law. Violations found to be "knowing and willful" must be reported to the MTA C&D President and OGS.

Moreover, the statutes require MTA C&D to obtain certain affirmation and certifications from Bidders and Proposers. This schedule contains the forms to comply, with additional information and instructions.

DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS

Instructions:

New York State Finance Law Section 139-k(2) obligates MTA C&D to obtain specific information regarding prior non-responsibility determinations. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law Section 139-k, an offeror must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law Section 139-j, or (b) the intentional provision of false or incomplete information to a Governmental Entity.

As part of its responsibility determination, State Finance Law Section 139-k(3) mandates consideration of whether an offeror fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no procurement contract shall be awarded to any offeror that fails to timely disclose accurate or complete information under this section, unless the factual elements of the limited waiver provision can be satisfied on the written record.

Pursuant to State Finance Law §139-j(6), as amended in 2010, the affirmation by the offeror on this schedule is deemed to apply to any amendment to the procurement after the initial affirmation is received with the initial Bid. Such amendments include, but are not limited to, contract extensions, modifications and change orders.

The Design-Builder has a continuing obligation to disclose accurate and complete information regarding a determination of non-responsibility. If at any time the Design-Builder's affirmation is no longer accurate due to changed circumstances, the Design-Builder must provide MTA C&D with an updated Schedule VII.

THE FORMS ARE ON THE NEXT PAGES

COMPLIANCE WITH NYS FINANCE LAW SECTIONS 139-j AND 139-k

DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS

Name of Bidder / Proposer: _____

Address: _____

Name and Title of Person Submitting this Form: _____

Has any governmental entity* made a finding of non-responsibility regarding the Bidder/Proposer in the previous four (4) years?	No	Yes
If yes: Was the basis for the finding of the Bidder's/Proposer's non-responsibility due to a violation of State Finance Law Section 139-j?	No	Yes
Was the basis for the finding of Bidder's/Proposer's non-responsibility due to the intentional provision of false or incomplete information to a governmental entity?	No	Yes
<i>If yes, please provide details regarding the finding of non-responsibility below.</i>		
Governmental Entity: _____		
Year of Finding of Non-responsibility: _____		
Basis of Finding of Non-responsibility: _____		
<hr/>		
(Add additional pages as necessary)		
Has any governmental entity terminated a procurement contract with the Bidder/Proposer due to the intentional provision of false or incomplete Information?	No	Yes

*A "government entity" is: (1) any department, board, bureau, commission, division, office, council, committee or officer of New York State, whether permanent or temporary; (2) each house of the New York State Legislature; (3) the unified court system; (4) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law; (5) any public authority or public benefit corporation, at least one of those members is appointed by the governor or who serves as a member by virtue of holding a civil office of the state; (6) a municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of the Legislative Law; or (7) a subsidiary or affiliate of such a public authority. (SFL Section 139-j, paragraph 1.a)

COMPLIANCE WITH NYS FINANCE LAW SECTIONS 139-j AND 139-k

BIDDER'S/PROPOSER'S AFFIRMATION AND CERTIFICATION

By signing below, the Bidder / Proposer understands that its affirmation and certification applies to the initial procurement as well as any amendment to the procurement after the affirmation is received, including, but not limited to, contract extensions, modifications and change orders, and:

- a) Affirms that the Bidder/Proposer understands and agrees to comply with the policies regarding permissible contacts in accordance with State Finance Law Sections 139-j and 139-k of New York State.
- b) Certifies that all information provided to MTA C&D with respect to State Finance Law Sections 139-j and 139-k is complete, true, and accurate.
- c) Acknowledges that the Bidder/Proposer has a continuing obligation to disclose complete and accurate information regarding a determination of non-responsibility to the Authority, and agrees to provide the Authority with an updated affirmation if the initial affirmation becomes inaccurate due to changed circumstances.

By: _____
(Signature of Person Certifying)

Date: _____

Print Name: _____

Print Title: _____

Bidder/Proposer or Contractor/Consultant: _____
(Full Legal Name)

Address: _____

Business Telephone Number: _____

MTA C&D'S RIGHT TO TERMINATE

MTA C&D reserves the right to terminate a Contract in the event it is found that the certification filed by the Contractor / Consultant, as Bidder / Proposer, in accordance with New York State Finance Law Section 139-k was intentionally false or intentionally incomplete. Upon such finding, MTA C&D may exercise its termination right by providing written notification to the Contractor/Consultant in accordance with the written notification terms of the Contract.

Rev. 11/1/11

SCHEDULE VIII – MTA VENDOR CODE OF ETHICS CERTIFICATION

The Metropolitan Transportation Authority has adopted an MTA Vendor Code of Ethics (“the Code”), which is applicable to all Vendors, as defined by the Code, involved in the procurement process for the award and performance of this Contract. All Vendors involved in this Invitation for Bids (“IFB”) or Request for Proposal (“RFP”) and during the performance of any resultant contract are subject to the Code, which is available for Bidder/Proposer’s immediate review on the MTA website at www.mta.info/mta/procurement/vendor-code.htm. Accordingly, all Bidder/Proposers must certify compliance with the Code.

Bidder/Proposer’s Certification of Compliance with the Code

Consistent with the terms of the MTA Code of Ethics, which are incorporated herein by reference, the undersigned Bidder/Proposer hereby certifies that during the course of this IFB or RFP and any resultant Contract:

1. The Bidder/Proposer has notice of all of the terms of the Code;
2. No gift, as defined by the Code, has been or will be offered to MTA C&D in connection with this IFB or RFP or any resultant contract;
3. No conflicts of interest exist or will exist;
4. All officers and personnel of the Bidder/Proposer who have interacted or will interact with MTA C&D have been or will be provided a copy of the Code; and
5. The Bidder/Proposer will obtain certifications similar to those made herein from all of its lower tier subcontractors, sub-consultants, and suppliers that the Bidder/Proposer engaged or are being solicited for work under any contract resulting from this procurement. Receipt and retention of these lower tier certifications shall be subject to audit by MTA C&D.

By:

(Signature of Person Certifying)

(Date Signed)

Print Name:

Print Title:

Bidder/Proposer or
Contractor/Consultant

(Full Legal Name)

Address:

Business Phone No.:

SCHEDULE IX – DISCLOSURE FORM FOR POTENTIAL CONFLICT OF INTEREST

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

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

1. The fulfillment of obligations by the Firm, as proposed in the response, does not violate any existing contracts or agreements between the Firm and the State;
2. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Firm has with regard to any existing contracts or agreements between the Firm and the State;
3. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not compromise the Firm's ability to carry out its obligations under any existing contracts between the Firm and the State;
4. The fulfillment of any other contractual obligations that the Firm has with the State will not affect or influence its ability to perform under any contract with the State resulting from this RFP;
5. During the negotiation and execution of any contract resulting from this RFP, the Firm will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
6. In fulfilling obligations under each of its State contracts, including any contract which results from this RFP, the Firm will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
7. No former officer or employee of the State who is now employed by the Firm, nor any former officer or employee of the Firm who is now employed by the State, has played a role with regard to the administration of this contract procurement in a manner that may violate section 73(8)(a) of the State Ethics Law; and
8. The Firm has not and shall not offer to any employee, member or director of the State any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

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

Signature: _____

Name: _____

Title: _____

Date: _____

This Form must be signed by an authorized executive or legal representative.

STATE OF _____
COUNTY OF _____) ss:

On the ____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to this certification and said person executed this instrument.

Notary Public

SCHEDULE X – IRAN DIVESTMENT ACT CERTIFICATION

Pursuant to New York State Finance Law § 165–a, Iran Divestment Act of 2012, the Office of General Services is required to post on its web site a list of persons who have been determined to engage in investment activities in Iran (“the List”), as defined in that Act. Under Public Authorities Law § 2879-c, Iranian Energy Sector Divestment, MTA C&D may not enter into or award a contract unless it obtains a certification from a Bidder/Proposer, who shall check the box and make the certification in Subparagraph a, below, that they are not on the List. If that certification cannot be made, MTA C&D may consider entering into a contract, on a case by case basis if the Bidder/Proposer checks the box and makes the certification in Subparagraph b, below, that their Iran investment is ceasing.

For purposes of this provision, a person engages in investment activities in Iran if: (A) the person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or (B) the person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five (45) days or more, if that person will use the credit to provide goods or services in the energy sector in Iran.

By checking the applicable box below, the Bidder/Proposer, _____,

(Name of Bidder/Proposer)

certifies as follows:

- ☐ **a. Certification that the Bidder/Proposer is not on the List:** Each person, where person means natural person, corporation, company, limited liability company, business association, partnership society, trust, or any other nongovernmental entity, organization, or group, and each person signing on behalf of any other party, certifies, and in the case of a joint bid or proposal or partnership each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law, or,
- ☐ **b. Certification that the Bidder’s/Proposer’s investment in Iran is ceasing:** The person cannot make the certification in Subparagraph a, above, but asks MTA C&D to consider them for award of the Contract by certifying, under penalty of perjury, that the person’s investment activities in Iran were made before April 12, 2012; the person’s investment activities in Iran have not been expanded or renewed after April 12, 2012; and the person has adopted publicized and is implementing a formal plan to cease its investment activities in Iran and to refrain from engaging in any new investments in Iran.

Signature of Person with Authority
To Sign on Bidder/Proposer’s Behalf

Print Name and Position

SCHEDULE XI – PROPOSER'S ACKNOWLEDGMENT

1.0 The Proposer, _____
(Insert full legal name, including state of formation, if applicable)

acknowledging that it has satisfied itself as to the nature, location and site conditions of the Work, and carefully examined all of the Contract Documents, offers to perform for MTA C&D all the Work described in said Contract Documents in strict conformity with each and every provision of said Contract Documents at the price(s) set forth in Schedule XXV and within the time(s) set forth in the Contract Documents.

2.0 The Proposer acknowledges that upon default in its commitment pursuant to its Proposal and without further notice to the Proposer, MTA C&D may proceed to execute a contract with any of the original Proposers as MTA C&D considers to be in its best interest, or may invite further bids, and the Proposer shall thereupon, in either case, be liable to MTA C&D for all loss and damages sustained by MTA C&D by reason of such default of the Proposer.

3.0 MTA C&D may also incur damage by reason of ultimately entering into a contract for this Work at a higher price than that offered by the Proposer. In such event, the Proposer shall be liable to MTA C&D for the excess of the amount of the gross sum bid price ultimately accepted by MTA C&D over the gross sum bid price of the Proposer.

4.0 Remedies provided herein are not exclusive and are in addition to any other rights and remedies provided by law and/or these Contract Documents.

5.0 Further, upon submission of this bid, the Proposer acknowledges and agrees to the following:

6.0 The offer made by the Proposer shall be irrevocable for one-hundred-eighty (180) calendar days after the date the Price Proposal or any Best and Final Offer is submitted to MTA C&D, whichever is later, without regard to any bid rejection, conditional acceptance or counter offer.

7.0 MTA C&D reserves the right to require the Proposer, prior to the award of the Contract, to submit financial statements and experience data in a form and content satisfactory to MTA C&D, and to be questioned thereon, in order to enable MTA C&D to determine whether the undersigned is financially and technically responsible to perform the Work. Failure to comply with these requirements may preclude the award of the Contract to the Proposer.

8.0 As provided in the General Provisions Article 7.14A titled, New York State Sales Taxes, the Proposer understands that it shall not, and represents that it has not included in the price(s) set forth in the bid any amount on account of possible State of New York sales or compensating use taxes on the sale or transfer to it of any personal property which will become an integral component part of the Work.

9.0 Upon acceptance of this Proposal, as evidenced by the issuance to the Proposer of the Notice

of Award, a valid and binding Contract shall thereby be created. The undersigned hereby binds itself to acknowledge the Contract and to return an executed copy of the Notice of Award to MTA C&D, along with the required bonds in the same form as those included in this Contract, insurances, accompanied by a current Certificate of Qualification pursuant to Section 1111 of the Insurance Law, and other documents as may be required by MTA C&D, within fifteen (15) days of the receipt of such Notice of Award, subject only to delays resulting from the issuance of a court order or other legal compulsion expressly preventing the undersigned from performing such act. MTA C&D shall advise if the bonds and insurances submitted are satisfactory. The amount of each bond shall be for 100% of the award amount for the Work and remain in effect for the life of the Contract and as further detailed below. The proposed surety must be a corporate surety licensed to do business in the State of New York and in good standing under the laws of the State with an approved capacity to exceed the total amount of the bid.

The bond(s) shall not be cancelled until the statutory time within which liens may be filed by subcontractors, laborers and material suppliers has expired, nor until the Contractor has, in MTA C&D's sole discretion, otherwise satisfactorily complied with the terms of this Contract. The required forms of these bonds are in the Instructions to Proposers, Appendix E..

- 10.0 MTA C&D reserves the right to waive informalities in or to reject any and all bids, as it may determine in its sole discretion.
- 11.0 A protest of any contemplated or actual award by a Proposer shall be submitted in accordance with the latest issue of MTA C&D's Protest Procedure, a copy of which may be obtained upon written request to the Procurement Officer.

SCHEDULE XII – PROPOSER’S SIGNATURE AND CERTIFICATE OF AUTHORITY

1.0 EACH PROPOSER, MUST SIGN BELOW TO VALIDATE ITS PROPOSAL.

IN WITNESS WHEREOF, the undersigned hereby certifies that she/he has read the entire Contract Documents, including Contractor’s Proposal Section, and all entries made on each Schedule, all supplemental data and each written understanding, agreement, offer, acknowledgment, and words of like import prepared and furnished by or on behalf of the Proposer, and attests that it is accurate and the Proposer is bound thereby.

	(Exact name of individual, firm or corp.)
Officer, Agent or Partner Name & Title	_____
	(Type or Print)
Officer, Agent or Partner	_____
	(Signature)
Date:	_____

2.0 THE FOLLOWING SHALL ALSO BE COMPLETED IF THE PROPOSER IS A CORPORATION:

I, the undersigned, as Secretary to the corporation submitting the foregoing proposal/bid, hereby certify that under and pursuant to the bylaws and resolution of said corporation, each officer who has signed such proposal/bid on behalf of the corporation, is fully and completely authorized to do so.

(CORPORATE SEAL)

Secretary _____
(Signature)

Secretary _____
(Type or Print Name and Title)

SCHEDULE XIII – FEDERAL CERTIFICATION AND DISCLOSURE FORMS

FORM A-1

Contract No: CBX001

Title: Design-Build Services for [] for the [] Project.

**CERTIFICATION OF A POTENTIAL PRIME CONTRACTOR
(MAJOR THIRD PARTY CONTRACTOR) REGARDING DEBARMENT,
SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The Potential Contractor _____, certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this Proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this proposal or Proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
5. The potential Contractor agrees to provide the Authority with immediate written notice if, at any time, it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. Each Subcontractor or Vendor for the Contractor shall provide the same updated notice to the Contractor and the Contractor shall be solely responsible for collecting, updating and submitting updated information to the Authority.

NOTE: If for any reason the potential Contractor is unable to certify to any of the statements in this certification, the potential Contractor shall attach an explanation to this certification.

THE POTENTIAL CONTRACTOR, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature and Title of Authorized Official

Date

FORM A-2

Contract No: CBX001

Title: Design-Build Services for [] for the [] Project.

**CERTIFICATION OF A POTENTIAL SUBCONTRACTOR/SUPPLIER
REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY
AND VOLUNTARY EXCLUSION**

1. The potential Subcontractor/Supplier, _____, certifies, by submission of this Proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. If for any reason the potential Subcontractor/Supplier, is unable to certify to any of the statements in this certification, it shall attach a explanation to this Proposal.
3. THE POTENTIAL SUBCONTRACTOR/SUPPLIER, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.
4. The Subcontractor/Supplier shall provide to the Authority and the Subcontractor shall provide to Contractor immediate written notice, at any time, it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

Signature and Title of Authorized Official

Date

Contractor Note: Contractor must require all Subcontractors/Suppliers to complete this certification and Contractor shall submit the certifications to the Authority as they are received

FORM A-3

Contract No: CBX001

Title: Design-Build Services for [] for the [] Project.

CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, _____, hereby certify on behalf
(name of authorized official)

of _____ that:
(name of firm)

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any 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 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.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is 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 section 1352, title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ day of _____, 20__.

By _____
(Signature of Authorized Official)

(Title of Authorized Official)

SCHEDULE XIV – PROPOSED SUBCONTRACTOR QUESTIONNAIRE

A Subcontractor is defined as being a subcontractor, subconsultant or that is proposed by the Bidder/Proposer as a Subcontractor for work on the Contract prior to Contract Award, or is a Subcontractor for which the Bidder/Proposer is requesting approval subsequent to Contract Award.

Name of Prime Contractor

Address City State Zip
Code

Federal ID/TIN Number

under its Contract No. _____ with the MTA
for which the MTA C&D is acting as an agent for.

A Subcontractor is defined as being a 'known' Subcontractor, if that Subcontractor is proposed by the Bidder/Proposer as a Subcontractor for work on the Contract prior to Contract Award, or is a Subcontractor for which the Bidder/Proposer is requesting approval subsequent to Contract Award.

GENERAL INFORMATION

1. Name of proposed subcontractor _____

2. Address _____
(principal office)

3. If a corporation: When incorporated: _____ Vice-President's name: _____ Secretary's name: _____ Treasurer's name: _____ Papers are filed in _____ County Clerk's Office.	If a co-partnership: Date of organization: _____ Name and addresses of partners: _____ _____ _____
--	--

4. Description of work to be done under proposed **subcontract**. Indicate clearly whether work involves labor only or labor and material. List principal items of materials, if any, to be furnished.

5. Total amount of proposed subcontract \$ _____

EXPERIENCE

6. How many years' experience:

As a contractor? _____ As a subcontractor? _____

7. Give, briefly, previous experience of directing officers including chief engineer and general superintendent on similar work.

<i>NAME</i>	PRESENT POSITION	YEARS OF CONSTRUCTION EXPERIENCE	MAGNITUDE AND TYPE OF WORK	WHAT CAPACITY

8. List principal contracts completed by present organization.

LOCATION	CONTRACT PRICE	CLASS OF WORK	DATES COMPLETED	NAME AND ADDRESS OF AWARDING PARTY

9. List contracts, if any, that present organization on hand.

LOCATION	CONTRACT PRICE	CLASS OF WORK	PERCENT COMPLETED	NAME AND ADDRESS OF AWARDING PARTY

10. Give references of at least two engineers or architects for whom present organization has done similar work.

NAME	TELEPHONE NO.	ADDRESS	POSITION

11. Labor employed through _____
(Specify Union, Local No. Address & Telephone No.)

12. Give any supplemental information that the undersigned desires to submit.

REPRESENTATIONS

13. To the best of your knowledge after diligent inquiry, in connection with the business of proposed subcontractor or any other firm which is related to proposed subcontractor by any degree of common ownership, control, or otherwise, do any of the following statements apply to: i) Bidder; ii) Bidder's parent; iii) any Bidder subsidiary or affiliate; iv) any joint venture (including its individual members) or any other partnership (including its individual members) which includes proposed subcontractor or proposed subcontractor's parent, subsidiaries, or affiliates, v) any legal entity, or parent, subsidiary or affiliate of any legal entity, controlled or 10% or more of which is owned, by proposed subcontractor, or by any director, officer, principal or managerial employee of proposed subcontractor, or by any person or entity with a 10% or more interest in the proposed subcontractor or vi) any person who is a director, officer, principal, or, managerial employee, or person or entity with a 10% or more interest in any of the aforesaid:

A. Has been convicted by a plea or verdict of guilty of, or pleaded nolo contendere to, a misdemeanor or felony in any federal, state or local court?

(Check "YES" or "NO", as appropriate.)

YES ☐

NO ☐

B. Have pending any state or federal grand jury or court an indictment or information for the commission of a crime which has not been favorably, terminated?

(Check "YES" or "NO", as appropriate.)

YES ☐

NO ☐

C. Is the subject of any pending investigation by any grand jury, commission, committee or other entity or agency or authority of any state or the federal government in connection with the commission of a crime?

(Check "YES" or "No", as appropriate.)

YES ☐

NO ☐

D. Is currently disqualified from selling or submitting bids/proposals to or receiving awards from or entering into any contracts with any federal, state or local governmental entity, any public authority or any public entity? (Check "YES" or "NO", as appropriate.)

YES ☐

NO ☐

E. Within the past five years, has refused to testify or to answer any question concerning a bid or contract with any federal, state, or local governmental entity, any public authority or other public entity when called before a grand jury or other committee, agency or forum which is empowered to compel the attendance of witnesses and examine them under oath, upon being advised that neither the person's statement nor any information or evidence derived from such statement will be used against that person in any subsequent criminal proceeding? (Check "YES" or "NO" as appropriate.)

YES ☐

NO ☐

- F. Is currently disqualified from selling or submitting a bid to, or receiving an award from, or entering into any contract with any public entity or public authority within the State of New York because, within the past five years, such entity or person refused to testify or to answer any relevant question concerning a transaction or contract with the State of New York, any political subdivision of the State of New York, or a public authority or a public department, agency or official of the State of New York or of a political subdivision of the State of New York, when called before a grand jury or other state or local department, commission or agency which is empowered to compel the attendance of witnesses and examine them under oath. upon being advised that neither that person's statement nor any information or evidence derived from such statement will be used against that person in any subsequent criminal proceeding? (Check "YES" or "NO", as appropriate.)

YES ☐

NO ☐

- G. Has within a three-year period preceding the submittal of this Qualification been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain. or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property? (Check "YES" or "NO", as appropriate.)

YES ☐

NO ☐

- H. Explain any "YES" answers to A, B, C, D, E, F or G above in the space provided below (attach additional pages as needed).

14. Proposed Subcontractor must list their Experience Modification Rate (EMR) and OSHA Frequency Rates (lost time incidents per 200,000 hours worked) for the current and previous four (4) years in the table provided on the next page. If EMR and OSHA Rates have not been calculated for all the years listed on the next page, the bidder will provide the information for the years available and explain why it cannot provide the information for the remaining years. (Note: If the bidder is a joint venture, the joint venture and each firm participating in the joint venture will provide their respective EMR and OSHA Rates by making duplicate copies of this provision and insert the information for each firm. The name of the firm will be inserted at the top of the page.) The Bidder must submit back-up documentation (such as Experience Promulgation Worksheets or EMR from Worker's Compensation Insurance Policy) from their insurance carrier(s) and a copy of their OSHA 200 form(s) to support the EMR and OSHA Rates listed in the table on the next page.

Experience Modification Rate (EMR) for current year and prior four years:		OSHA Frequency Rates (Lost time incidents per 200,000 hours worked for current year and prior four years):
	Name of Insurance Provider	
Current Year _____		Current Year _____
1 year ago _____		1 year ago _____
2 years ago _____		2 years ago _____
3 years ago _____		3 years ago _____
4 years ago _____		4 years ago _____

If firm cannot provide EMR and OSHA Frequency Rates for all the years listed above, explain the details below.

15. Is your firm's Workers Compensation Experience Rating 1.2 or greater?

YES ☐

NO ☐

If answer is "YES", explain details below.

16. Use your last year's OSHA No. 200 Log to fill in: Number of injuries and illnesses:

- a. Number of lost workday cases _____
- b. Number of restricted workday cases _____
- c. Number of cases with medical attention only _____
- d. Number of fatalities _____

Are accident reports (OSHA 200) and report summaries sent to the following and how often?

	No	Yes	Monthly	Quarterly	Annually
Project Superintendent/Site Manager	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice President/Manger of Construction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Site Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
President of Firm	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The undersigned agrees to furnish the MTA or MTA C&D any additional or supplemental information regarding its qualifications, when and as required.

Signature of Proposed Subcontractor Officer, Partner or Owner

Print Name of Signature of Proposed Subcontractor Officer,
Partner or Owner

Signature of Proposed Subcontractor Officer, Partner or Owner

Date

PROPOSED SUBCONTRACTOR QUESTIONNAIRE EXECUTION,
VERIFICATION AND ACKNOWLEDGMENT

(Complete and submit this Affidavit and Acknowledgment unless the Certificate of No Change applies.)

Proposed Subcontractor must sign here: _____

Date: _____

STATE OF _____)
) ss.:
COUNTY OF _____)

On the _____ day of _____, 20____, before me personally came and appeared

_____ by me known to be said person, who swore under oath as follows:

1. He/she is _____ of _____
(Print title) (Print name of firm)
2. He/she is duly authorized to sign this Questionnaire on behalf of said firm and duly signed this document pursuant to said authorization.
3. The answers to the questions set forth in this Questionnaire and except as set forth in the stated exceptions in Part III, Bidder's Representations, the representations set forth in this Questionnaire, are true, accurate and complete. I authorize the Metropolitan Transportation Authority and any of its subsidiaries or affiliates to verify any such information and to conduct any background checks it deems appropriate.
4. He/she acknowledges and understands that this Questionnaire includes additional conditions and obligations on the Contractor and rights in favor of the Metropolitan Transportation Authority and the MTA C&D, which are deemed included in the Contract if awarded to the firm.

Sworn to and subscribed to before me this _____ day of _____, 20____

(Notary Public)

Notary Public _____ County

My Commission expires: _____

SCHEDULE XIV-A – CONTRACT-SPECIFIC SUBCONTRACTOR QUESTIONNAIRE

All proposed subcontractors must complete Schedule **XIV-A** for subcontracts for \$15,000 or more that do not require the submission of Schedule **VI** and **VI-A**. Schedules **VI** and **VI-A** must be submitted for subcontracts in which the subcontractor is proposed to perform work (i) valued at \$1 million or more and more than 10% of the prime contract value; or (ii) valued at \$5 million or more; or (iii) in Special Circumstances subcontracts of \$100,000 or more. Schedule **XIV-A** (Potential Subcontractor Questionnaire) should have been submitted previously to MTA's Document Repository at www.mymta.info.

For the purposes of this Schedule XIV-A, a subcontractor is any company that will perform work for a prime contractor, or will provide supplies, materials or equipment.

MTA Prime Contract Number: _____

Name of Prime Contractor

Prime Contractor's Address City State Zip Code

Prime Contractor's Federal EIN Number

I am _____ of _____.
(Print title) (Print name of subcontractor company)

1. Name of subcontractor: _____

2. Address of subcontractor (principal office): _____

3. Subcontractor's Federal EIN Number:

4. Description of work to be done under proposed subcontract. Indicate clearly whether work involves labor only or labor and material. List principal items of materials, if any, to be furnished. Attach additional sheet if necessary.

5. Total amount of proposed subcontract \$ _____

6. List active contracts that are running concurrently with this contract:

Location	Contract Price	Class of Work	Percent Completed	Name & Address of Awarding Party

I am duly authorized to sign this Schedule XIV-A on behalf of the subcontractor and affirm that the information contained in this document is true, accurate and complete. I authorize the MTA to verify the information contained in this schedule and to conduct any background checks or other investigations it deems appropriate.

I understand and agree that typing my name or attaching a digital signature in the space below will have the same force and legally binding effect as my original handwritten signature.

Name: _____

Title: _____

By: _____
Signature

Date: _____

SCHEDULE XV – EXECUTIVE ORDER NO. 177 CERTIFICATION

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

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

Generally, the Human Rights Law applies to:

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

In accordance with Executive Order No. 177, the Bidder/Proposer 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.

Contractor: _____

By: _____

Name: _____

Title: _____

Date: _____, 20__

☐ The Certification is to be submitted prior to contract award by all successful bidders/proposers on all Covered contracts and contract renewals.

Enclosed For Reference Only

Completed Form to be Submitted Electronically on Document Repository (located at Schedule T)
SCHEDULE XVI – DIVERSITY PRACTICES QUESTIONNAIRE

I, _____, as _____ of
(name) (title)

_____ company (hereafter referred to as the company), swear and affirm under penalty of perjury that the answers submitted to the following questions are complete and accurate to the best of my knowledge:

1. Does your company have a Chief Diversity Officer or other individual who is tasked with implementing supplier and/or workforce diversity initiatives? ☐ Yes ☐ No

If Yes, provide the name, title, description of duties, and evidence of initiatives performed by this individual or individuals.

_____ (attach additional pages, if necessary, in response to this question and any other questions on this form that require additional space for a complete answer)

2. What percentage of your company's gross revenues (from your prior fiscal year) was paid to New York State certified minority and/or women-owned business enterprises as subcontractors, suppliers, joint-venturers, partners or other similar arrangement for the provision of goods or services to your company's clients or customers?

3. What percentage of your company's overhead (i.e. those expenditures that are not directly related to the provision of goods or services to your company's clients or customers) or non-contract-related expenses (from your prior fiscal year) was paid to New York State certified minority- and women-owned business enterprises as suppliers/contractors?³

4. Does your company provide technical training⁴ to New York State certified minority and women-owned business enterprises?: ☐ Yes ☐ No

If Yes, provide a description of such training which should include, but not be limited to, the date the program was initiated, the names and the number of New York State certified minority- and women-owned business enterprises participating in such training, the number of years such training has been offered and the number of hours per year for which such training occurs.

5. Is your company participating in a government approved minority- and women-owned business enterprise mentor-protégé program? ☐ Yes ☐ No

³ Do not include onsite project overhead.

⁴ Technical training is the process of teaching employees how to more accurately and thoroughly perform the technical components of their jobs. Training can include technology applications, products, sales and service tactics, and more. Technical skills are job-specific as opposed to soft skills, which are transferable.

If Yes, identify the governmental mentoring program in which your company participates and provide evidence demonstrating the extent of your company’s commitment to the governmental mentoring program.

6. Does your company include specific quantitative goals for the utilization of New York State certified minority- and women-owned business enterprises in its non-government procurements? ☐ Yes ☐ No

If Yes, provide a description of such non-government procurements (including time period, goal, scope and dollar amount) and indicate the percentage of the goals that were attained.

7. Does your company have a formal supplier diversity program for New York State certified minority- and women-owned business enterprises? ☐ Yes ☐ No

7A. If yes, has your company incorporated NY State Certified Service Disabled Veteran Owned Businesses (SDVOB) into the Supplier Diversity Program? _____

Provide documentation of program activities and a copy of policy or program materials related to 7 & 7A.

All information provided in connection with the questionnaire is subject to audit and any fraudulent statements are subject to criminal prosecution and debarment.

I understand and agree that typing my name or attaching a digital signature in the space provided below will have the same force and legally binding effect as my original handwritten signature.

Signature of Person Certifying: _____

Name: _____

Title: _____

Address: _____

City, State, Zip: _____

Date: _____

SCHEDULE XVII – DRUG AND ALCOHOL CERTIFICATIONS

CERTIFICATIONS

1. For All MTA C&D Contracts:

Contractor certifies that it has read the attached MTA Construction & Development Company Drug and Alcohol Policy for Construction Contractors and Subcontractors (the “MTA C&D Drug and Alcohol Policy”) and that it will comply with the terms of this policy during the duration of its contract with the MTA.

Contractor understands that compliance with the MTA C&D Drug and Alcohol Policy is required for all construction contractors and subcontractors working on MTA C&D contracts, irrespective of whether the contract is federally funded.

Name of Contractor: _____

Name of Authorized Signatory: _____

Title: _____

Date: _____

Signature: _____

2. For All Federally Funded Contracts:

For federally funded contracts, Contractor must complete both the MTA C&D Drug and Alcohol Policy certification above and the applicable certification(s) below.

A. For FRA-funded contracts:

Contract certifies that it will comply with all requirements of 49 C.F.R. Parts 40 and 219 (Control of Alcohol and Drug Use) during the term of its contract with the MTA, and that it will submit a Part 219 compliance plan to the FRA for approval within thirty (30) days of receiving an MTA Notice of Award.

Name of Contractor: _____

Name of Authorized Signatory: _____

Title: _____

Date: _____

Signature: _____

B. For FTA-funded contracts:

In accordance with the requirements of 49 C.F.R. 655.83, Contractor certifies that it has established and implemented an alcohol misuse and anti-drug use program that complies with the requirements of 49 C.F.R. Parts 40 and 655 (Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations) and that it will comply with all requirements of these Parts during the term of its contract with the MTA.

Name of Contractor: _____

Name of Authorized Signatory: _____

Title: _____

Date: _____

Signature: _____

**MTA CONSTRUCTION & DEVELOPMENT COMPANY
DRUG AND ALCOHOL POLICY FOR
CONSTRUCTION CONTRACTORS AND SUBCONTRACTORS**

September 2020

POLICY STATEMENT

This policy applies to all contractors and subcontractors working on an MTA Construction & Development Company (“MTA C&D”) jobsite. The purpose of this policy is to ensure that construction contractors employ a zero tolerance standard towards drug and alcohol use on MTA C&D jobsites and related offsite areas, meaning that these sites shall be drug and alcohol free. Adherence to this policy is mandatory; failure to comply with any policy requirements will result in the appropriate disciplinary action, as detailed below.

POLICY REQUIREMENTS

Drugs And Alcohol Are Not Permitted On An MTA C&D Jobsite. Employees of contractors and subcontractors cannot possess drugs or alcohol while on an MTA C&D jobsite or while performing work offsite during working hours in connection with an MTA C&D contract. Contractors and subcontractors are responsible for reviewing the use of prescription drugs with their employees to ensure that such use does not impair safe job performance of their job responsibilities, and to ensure that a supervisor is advised of any job restrictions that should be observed as a result.

Contractors Cannot Be Under The Influence Of Drugs Or Alcohol While On An MTA C&D Jobsite. Employees of contractors and subcontractors must be drug and alcohol free at all times while on an MTA C&D jobsite and while performing work offsite during working hours in connection with an MTA C&D contract. Employees of contractors and subcontractors must report to work without drugs or alcohol in their system and remain that way during working hours; the use and consumption of drugs and alcohol both during the work day and prior to the start of the work day is expressly prohibited.

Training Requirements. All contractor and subcontractor employees assigned to an MTA C&D project in a supervisory or managerial role shall be required to complete a training session that explains the effects of drugs and alcohol on workplace performance. These training sessions shall be arranged for and conducted by the contractor. All supervisors and managers must complete this training session before they can begin work on an MTA C&D jobsite.

Testing Program Requirements For Workers. The contractor must establish a mandatory drug and alcohol testing program for both the contractor and all subcontractors working at an MTA C&D jobsite. What follows are the minimum standards required for the implementation of this mandatory drug and alcohol testing program. The contractor should supplement the program requirements as it sees fit.

Drug and alcohol testing shall be required of contractor and subcontractor workers under all of the following circumstances:

1. **Pre-Employment.** All new hires and employees transferring from another project must be tested for the presence of drugs and alcohol. All such persons must receive a negative test result before they can begin work on an MTA C&D jobsite.
2. **Random.** Random testing shall occur without individualized suspicion that a person is using drugs or alcohol. The testing must occur every month and must be based upon a statistically random sampling in a non-predictable pattern (e.g., testing cannot always occur on Mondays or at the beginning of a shift), with the intent of testing all workers no

less than once each calendar year.

Workers cannot receive advance notice of testing dates and times. Any worker who fails to appear for random testing must have a legitimate documented reason for missing the test (e.g., a doctor's note showing that the employee was home sick or payroll records showing that the employee was on vacation). Any workers working on-site who fail to appear for a random test without a legitimate documented reason or otherwise refuse to submit to the test shall be removed from the jobsite immediately and shall not be permitted to return to work until they receive a negative test result.

3. For Cause Testing. Workers shall submit to testing any time there is a belief that the employee may be under the influence of drugs or alcohol. This includes, but is not limited to, situations where there is evidence of drugs or alcohol on the employee's person or in the employee's vicinity, there is unusual conduct or erratic behavior suggesting impairment or there is a significant deterioration in the employee's performance patterns.
4. Reasonable Suspicion. Workers shall submit to testing if a supervisor, manager or company official trained through this policy's mandatory training session to recognize the signs and symptoms of drug and alcohol use reasonably suspects that they are under the influence of drugs or alcohol. This suspicion must be based upon specific observations made by the supervisor or company official concerning the employee's current appearance, behavior, speech and/or smell, chronic effects or withdrawal effects.
5. Post-accident. Workers involved in an on-the-job accident where drugs and/or alcohol were present, or are believed to have been present, shall be tested immediately following the incident. If medical attention is required, testing shall begin as soon as practicable. This requirement shall apply to both the person who was injured and any person who potentially contributed to the accident in any way.
6. Return to Work. If a worker is found to have violated this testing program, they must be tested for drugs and alcohol and receive a negative result before returning to the jobsite. These workers shall also be subject to additional unannounced testing at an increased frequency for eight weeks, running from the date they are authorized to return to the jobsite. All return to work testing shall be at the sole cost of the contractor.

Ensuring the accuracy of testing procedures and results is critical. All testing shall be conducted by an independent medical review officer ("MRO") who is a licensed physician with experience in drug testing programs. Testing procedures may require the employee to submit to urine, saliva, breath, sweat and/or hair testing, and may also require a medical examination.

All test results must be sent to a laboratory that has been certified by the Department of Health and Human Services for specimen analysis and that utilizes industry recognized chain-of-custody standards. The laboratory shall use the following cutoff concentrations for initial and confirmatory drug tests:

Initial test analyte	Initial test cutoff concentration	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites	50 ng/mL	THCA	15 ng/mL.
Cocaine metabolites	150 ng/mL	Benzoylecgonine	100ng/mL.

Opiate metabolites			
Codeine/Morphine ⁶	2000 ng/mL	Codei	2000 ng/mL.
		Morphine	2000 ng/mL.
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL.
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL.
OXYCODONES/ OXYMORPHONE	100 ng/mL	Oxycodone	100 ng/mL
		Oxymorphone	100 ng/mL
Hydrocodone/ Hydromorphone	300 ng/mL	Hydrocodone	100 ng/mL.
		Hydromorphone	100 ng/mL.

Amphetamines⁷			
AMP/MAMP ⁸	500 ng/mL	Amphetamine	250 ng/mL.
		Methamphetamine ⁹	250 ng/mL.
MDMA ¹⁰ /MDA ¹¹	500 ng/mL	MDMA	250 ng/mL.
		MDA	250 ng/mL.

⁵ Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

⁶ Morphine is the target analyte for codeine/morphine testing.

⁷ Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specified cutoff.

⁸ Methamphetamine is the target analyte for amphetamine/methamphetamine testing.

⁹ To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL.

¹⁰ Methylenedioxymethamphetamine (MDMA).

¹¹ Methylenedioxyamphetamine (MDA).

The cutoff concentration for initial and confirmatory alcohol testing shall be a blood alcohol concentration of 0.02.

A worker shall be in violation of these testing program requirements if they receive a test result above the designated cut-offs. Workers who fail to meet the pre-employment testing requirements shall not be permitted to start work until they receive a negative test result. Workers who fail to meet any other testing requirement (e.g., random testing, for cause testing, reasonable suspicion testing, post-accident testing or return to work testing) shall be immediately removed from the jobsite and shall not be permitted to return to work until they are counseled on the use of drugs and alcohol in the workplace, and are retested by the MRO and receive a negative test result. If a worker fails a drug or alcohol test more than once at any point during their employment, they shall not be permitted to work on an MTA C&D jobsite for the remainder of the project.

This program does not restrict a contractor's ability to set confirmatory testing procedures allowing for a re-test of the original specimen that led to a positive test result; however, the employee cannot reenter the jobsite until they receive a negative test result.

Monthly Summaries. No later than the last business day of each month, contractor shall provide MTA C&D with a certified letter confirming ongoing compliance with this policy by both the contractor and its subcontractors. The certified letter shall also summarize the following with respect to the most recent round of testing: (i) the total number of employees tested that month (broken down by employer) and the overall pass/fail rate for both the drug and alcohol testing; (ii) the number of employees tested in each category (i.e., pre-employment, random, reasonable suspicion, etc.), including the pass/fail rate for both drug and alcohol testing associated with each category; (iii) with respect to random testing, the total number of persons appearing on the testing list, the number of those persons that were tested and an explanation as to why any person listed was not tested (including confirmation that certified payroll records were reviewed to ensure that person was not onsite, and confirmation that they were tested prior to their next work shift); (iv) confirmation that the identity of each employee was verified prior to a test; and (v) confirmation that any employee who failed a test was removed from the jobsite and proof of a negative result prior to returning. This letter must be certified by the contractor and contain a representation that the contents are true and correct to the best of their knowledge.

Monthly testing summaries should not contain names or other information that would allow a reviewer to identify the employee being tested. Note that employees can be designated in the summary with a numerical code (e.g., employee 1, employee 2, etc.).

Failure To Comply/Disciplinary Action. It is the contractor's responsibility to ensure that this policy is adhered to and that testing is performed in accordance with policy standards. Non-compliance by the contractor or its subcontractors shall result in one or more of the following disciplinary actions against the contractor: (i) a written warning, which may be considered in connection with MTA C&D's final review of the contractor's performance; (ii) a fine in an amount equal to the cost of no less than one month's drug testing; (iii) the implementation of an additional full time supervisor and/or an additional safety representative onsite, at contractor's cost; and/or (iv) termination of the underlying construction contract for inadequate safety performance.

If MTA C&D deems it necessary to stop work due to a violation of this policy, any delay or costs incurred by the stoppage shall be borne solely by the contractor.

Maintenance Of Records/Audit. Contractors shall prepare and maintain records in sufficient detail to demonstrate compliance with this policy. Records shall be maintained by both the MRO and contractor for no less than seven (7) years following the end of the construction project, and shall be subject to inspection and audit without prior notice by MTA C&D, the MTA Inspector General and/or the State of New York. Audits may include a review of communications between the contractor and MRO, invoices, and the identities and records of contractor and subcontractor employees who participated in the testing.

MTA C&D has also designated a quality assurance representative (the “QA Officer”) for each job. The QA Officer may appear on the jobsite at any time for the purpose of ensuring compliance with this policy.

Policy Notification Requirements. It is the responsibility of the contractor to ensure that all of its employees and subcontractors and their employees receive a copy of this policy prior to the commencement of work on an MTA C&D job, and understand its conditions and requirements. In addition, contractors must prominently post the following notification at several highly visible locations on the jobsite (e.g., on gates, at entry points, on bulletin boards, near time clocks, in break areas, etc.): **“DRUG FREE AND ALCOHOL FREE WORKPLACE.”** The use or possession of alcohol and drugs is prohibited on this jobsite. Random drug and alcohol testing is a condition of employment. If you see or suspect someone to be under the influence of drugs or alcohol, you are required to immediately report that person to a supervisor.”

MTA C&D expressly reserves the right to modify this policy as needed to meet changing legal requirements, changing standards in drug testing and/or its business operation needs.

If you have any questions regarding the terms of this policy, please contact the construction manager.

SCHEDULE XVIII – DIESEL EMISSION REDUCTION ACT (DERA) REQUIREMENTS

Contract No: _____

Description: _____

- A. The Design-Builder represents that, in connection with activities relating to this Contract, it will be in compliance with the Diesel Emissions Reduction Act of 2006 ("DERA"), as codified at Section 19-0323 of the Environmental Conservation Law, and its implementing regulations at 6 NYCRR Part 248. In accordance with DERA, the Contractor:
1. Will use ultra-low-sulfur diesel fuel (≤ 15 ppm) in all heavy-duty diesel vehicles ($>8,500$ lbs. G.V.W.R.) ("HDVs") employed at or on the work site in rendering services or providing materials or equipment hereunder, unless said vehicles are otherwise exempt.
 2. Represents that all of its affected vehicles will meet the Particulate Matter ("PM") and Oxides of Nitrogen (NO_x) emission standards required by DERA through: i) utilization of devices certified by the US EPA or California Air Resources Board ("CARB") that achieve reductions in PM and NO_x at the highest classification level for emission control strategies that is applicable to the particular engine and application ("Best Available Retrofit Technology" or "BART"); ii) utilization of engines certified to meet the 2007 EPA standard for PM (0.01g/bhp-hr) as set forth in section 86.007-11 of Title 40 of the Code of Federal Regulations or to any subsequent US EPA standard that is at least as stringent; or iii) employment of alternative fuel vehicles which do not operate on diesel fuel ("alternative fuel" means natural gas, propane, ethanol, methanol, gasoline [when used in hybrid electric vehicles only], hydrogen, electricity, fuel cells, or advanced technologies that do not rely solely on diesel fuel or a diesel/non-diesel mixture).
- B. If the Design-Builder has secured a waiver from the BART or the ultra-low-sulfur diesel fuel requirements from the New York State Department of Environmental Conservation ("DEC"), Contractor will present same to the Project Manager or Engineer, as applicable, within seven (7) days of Contract award.
- C. The Design-Builder understands and acknowledges that MTA is required to submit an annual report detailing compliance with DERA by MTA and its contractors. The Design-Builder agrees that it will provide, no later than September 1st of each calendar year, the following information as to any covered vehicles performing work on the work site pursuant to this Contract:
- a.** the number of diesel-fuel powered motor vehicles owned or operated; **b.** the number of such vehicles that were powered by ultra-low-sulfur diesel fuel; **c.** the total number of on-road diesel fuel-powered motor vehicles owned or operated having a GVWR of more than 8,500 pounds; **d.** the total number of off-road vehicles owned or operated; **e.** the number of such on-road and off-road vehicles that utilized BART, including a breakdown by BART installation date, vehicle model, VIN (if applicable), engine year and the type and classification level of technology used for each vehicle including the CARB-designated diesel emission control

strategy family name, if applicable; **f.** the number of such vehicles that have been replaced/repowered with an engine certified to the applicable 2007 US EPA standard for PM as set forth in section 86.007-11 of Title 40 of the Code of Federal Regulations or to any subsequent USEPA standard for PM that is at least as stringent; **g.** the number of such vehicles that have been replaced with alternative fuel vehicles; **h.** the number of inventoried HDVs retired; **i.** identification of all ultra-low-sulfur diesel waivers, findings, and renewals of such findings, which, for each waiver, shall include, but not be limited to, the quantity of diesel fuel needed to power diesel fuel-powered motor vehicles owned or operated; and specific information concerning the availability of ultra-low-sulfur diesel fuel; **j.** identification of BART waivers issued to Design-Builder; **k.** the quantity of ultra-low-sulfur diesel fuel used; **l.** a certification that all reported information is correct, and statement of compliance indicating the percent of inventoried HDVs meeting DERA's requirements according to the schedule set forth in DERA; and **m.** any other information that may be required by the DEC. Listings of the information currently required by the DEC are available on DEC's website at www.dec.ny.gov.

- D. In any instance in which DEC suspends compliance with any DERA requirements or grants individual BART waivers for any time period, MTA will waive contractual compliance for the corresponding requirements and timeframe.
- E. Unless otherwise directed by MTA, the Design-Builder shall utilize the "Regulated Entity and Contractor Annual Report Form" and the "Regulated Entity and Contractor Vehicle Inventory Form," both available at www.dec.ny.gov/chemical/4754.html, to file the reports required in this **Schedule**. Completed forms should be submitted to [_____]. If the Design-Builder does not use HDVs to perform the work under this Contract, the Design-Builder must so certify on the above-referenced DEC forms.

SCHEDULE XXXI – DBE FORMS

CONTRACT NO. and
TITLE

CONTRACT VALUE

\$

SCHEDULE OF DBE PARTICIPATION

(Form A)

Name, Address, Telephone Number of DBE (including name of contact person Federal ID # or Social Security Number	Description of Work, Products and/or Services to be provided	Agreed Dollar Amount of DBE Subcontract	DBE % of Total Contract Price	DBE Projected Start and Completion Date

The undersigned bidder/proposer agrees that if it is eligible to be awarded the above contract, as a condition for being awarded the contract, it will enter into a formal agreement with each of the DBE firms listed in this schedule which are certifiable as such by the MTA. If any firm on the schedule is not certifiable, as a condition for being awarded the contract, the undersigned will enter into a subcontract with a substitute firm which must be certified by the MTA. The undersigned acknowledges that the information it has provided in this schedule will be verified by the MTA with the designated DBE firm(s).

BIDDER/
PROPOSER

ADDRESS:

AUTHORIZED
REPRESENTATIVE

TELEPHONE
NO.

AUTHORIZED
SIGNATURE

DATE

(Print or type)

***INTENT TO PERFORM AS SUBCONTRACTOR/SUBCONSULTANT
JOINT VENTURER***
(Form B)

CONTRACT NUMBER _____ CONTRACT TITLE _____

NAME OF PRIME BIDDER/PROPOSER _____

The undersigned intends to perform work in connection with the above project as (check one):

- ☐ A Subcontractor
- ☐ A Subconsultant
- ☐ A second tier Subcontractor
- ☐ A Joint Venturer

Pursuant to US DOT regulations codified at 49 C.F.R., Part 26, Disadvantaged Business Enterprise (DBE) firms projected to participate in the MTA's DBE Program must be certified as a DBE by the MTA in order for the firm's participation to be credited toward the DBE goal. If not certified as a DBE by the MTA, prospective firms must immediately submit a completed and signed DBE Certification Affidavit to the MTA Office of Civil Rights, Division of Business Programs, 2 Broadway, 16th Floor, New York, New York 10004. MTA will endeavor to expedite its determination on DBE status.

SUBCONTRACT AMOUNT \$ _____

The undersigned is prepared to perform the following work and/or supply the following material for the above project.

If applicable, please state the amount and percentage of work you intend to subcontract out to other Subcontractors/Vendors (both DBE and non-DBE Firms).

The undersigned intends to enter into a formal agreement for the above work with the named Bidder/Proposer conditioned upon the named Bidder/Proposer's being awarded this contract by the MTA or any of its affiliated agencies.

Name of DBE Firm (Please Type or Print)

Date

By: _____
Name & Title of Authorized Signatory

By: _____
Signature of Authorized Representative

SCHEDULE XXXII – PRIME CONTRACTOR CERTIFICATION OF NO CHANGE

1. I am (Print Name and Title) _____ of (Print Name of Company) _____ (the “Company”).
2. The Company is (check one) the Bidder _____, Proposer _____ for Solicitation/Contract # _____.
I am duly authorized to sign this Certification of No Change on behalf of the Company and to legally bind the Company to the terms hereof.
3. The Company understands that the statements made herein will be relied on by the MTA in connection with any award of the Contract. The Company certifies that the schedules and other submittals with ☒s marked in the columns below: (i) have been uploaded into the Document Repository within the past twelve (12) months; and (ii) that the information contained in these schedules and submittals remains complete and accurate as of the date of this Certification.

	SCHEDULES	Uploaded to Document Repository Within Past 12 Months	Document Remains Accurate
1	Federal Certification of Lobbying Restriction (Schedule A)		
2	C&D Responsibility Form (Schedule B)		
3	Lobbying Law (Schedule C)		
4	Executive Order 177 Certification Regarding Harassment and Discrimination (Schedule Q)		
5	Iran Divestment Certification (Schedule S)		
6	Diversity Practices Questionnaire (Schedule T) If selected as the successful respondent, does your company plan to enter into partnering or subcontracting agreements with: <ul style="list-style-type: none">• NY State certified minority- and women-owned business enterprises? Yes No• NY State certified service-disabled veteran owned businesses? Yes No		
7	Drug and Alcohol Policies (Schedule X)		
8	EEO-1 Form (Schedule Z)		
9	Financial Statements		
10	Financial Responsibility Data Workbook		

Company: _____

Dated: _____


Name: _____

Signature: _____

Title: _____

EIN #: _____

SCHEDULE XXXIII – SUBCONTRACTOR CERTIFICATION OF NO CHANGE

1. I am (Print Name and Title) _____ of (Print Name of Company) _____ (the “Company”).
2. The Company is proposed as a subcontractor by prime contractor _____ for Contract # _____. I am duly authorized to sign this Certification of No Change on behalf of the Company and to legally bind the Company to the terms hereof.
3. The Company certifies that the schedules with  marked in the columns below: (i) have been uploaded into the Document Repository within the past twelve (12) months; and (ii) that the information contained in these schedules remains complete and accurate as of the date of this Certification.

SCHEDULES

**UPLOADED TO
DOCUMENT
REPOSITORY
WITHIN PAST 12
MONTHS**

**DOCUMENT
REMAINS
ACCURATE**

1	Schedule B – Contractor Responsibility Form	<input type="checkbox"/>	<input type="checkbox"/>
2	Schedule F – Potential Subcontractor Questionnaire	<input type="checkbox"/>	<input type="checkbox"/>
3	Schedules X - Drug and Alcohol Certifications	<input type="checkbox"/>	<input type="checkbox"/>

Company: _____

Dated: _____

Name: _____

Signature: _____

Title: _____

EIN #: _____

TECHNICAL PROPOSAL SCHEDULES

CONTRACT #CBX001

Design-Build Services for Metro-North Railroad Penn Access Project

<u>Schedule</u>	<u>Description</u>
Schedule XIX	Past Project Description
Schedule XX	Past Performance
Schedule XXI	Awards, Citations and/or Commendations
Schedule XXII	Safety Questionnaire
Schedule XXIII	Workload Disclosure Form
Schedule XXIV	New York State Subcontractors and Suppliers

SCHEDULE XIX – PAST PROJECT DESCRIPTION

FORM E - 1 **PAST PROJECT DESCRIPTION**

Complete a copy of Form E-1 for each prior project to be described.

PROPOSER				
Name of firm				
Role of firm	Principal Participant:		Designer:	
	Other (describe):			
Experience (years)	Rail:		Roadways:	
Rail Specialty	Track/Special		Communications	
	Trackwork:		& Signal:	
	Bridges:		Power:	
DESCRIPTION OF PRIOR PROJECT				
Name of project				
Location				
Brief description				
Nature of work for which firm was responsible				
Brief description of site conditions				
List any awards or citations received by the project				
Client details (owner / agency/ contractor etc)	Client Name			
	Address			
	Contact name			
	Telephone			
	Contract Reference #			
Contract value: (US\$)		Final value (US\$):		
% of total work done by Firm:		Commencement date:		
Planned completion date:		Actual completion date:		
Amount of claims: (US\$)		Any litigation? (state yes or no)		

SCHEDULE XX – PAST PERFORMANCE

FORM PP **PAST PERFORMANCE**

For each firm, complete a copy of Form PP (all tables). Insert additional rows to any table below, if needed.

Form PP Table 1 AWARDS, CITATIONS and COMMENDATIONS			
NAME OF PROPOSER			
NAME OF FIRM			
Name of award, etc and name of awarding Body	Year received	Project name and project location	Work for which award, etc was received

Form PP Table 2 LITIGATION, CLAIMS, DISPUTE PROCEEDINGS and ARBITRATION				
NAME OF PROPOSER				
NAME OF FIRM				
Project name	Owner / agency / entity that initiated the action	Brief statement of the issue	Resolution / outcome / or outstanding	Current owner details: Contact Name/Phone/Email

Form PP Table 3 LIQUIDATED DAMAGES				
NAME OF PROPOSER				
NAME OF FIRM				
Project name	Causes of delay(s)	Amount assessed (US \$)	Summary of outstanding damage claims by any owner	Current owner details: Contact Name/Phone/Email

Form PP Table 4 TERMINATION FOR CAUSE			
NAME OF PROPOSER			
NAME OF FIRM			
Project name	Description of reason for termination	Amount involved (US \$)	Current owner details: Contact Name/Phone/Email

Form PP Table 5 DISCIPLINARY ACTION		
NAME OF PROPOSER		
NAME OF FIRM		
Project name	Description of action taken	Current owner details: Contact Name/Phone/Email

Form PP Table 6 NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE		
NAME OF PROPOSER		
NAME OF FIRM		
Status of firm's submission of vendor responsibility questionnaire	Confirm Yes or No	State whether submitted to MTA C&D or other
A New York State vendor responsibility questionnaire has recently been submitted to MTA C&D or another agency, prior to the Proposal Deadline		
A current New York State vendor responsibility questionnaire is already on file with MTA C&D or another agency		

SCHEDULE XXI – AWARDS, CITATIONS AND/OR COMMENDATIONS

SCHEDULE XXII – SAFETY QUESTIONNAIRE

FORM S
SAFETY QUESTIONNAIRE

Form S Table 1 shall be completed by the Proposer for the Key Personnel indicated.
A copy of Form S Table 2 shall be completed for each firm.

Form S Table 1 SAFETY QUESTIONNAIRE FOR PROPOSER						
NAME OF PROPOSER						
To be completed by the Proposer. Indicate the safety record on the most recent project to which the indicated Key Personnel were assigned.						
KEY PERSONNEL	NAME OF MOST RECENT PROJECT	Total hours by all employees on that project (hours)	Number of lost workday cases on that project (number)	Number of restricted workday cases on that project (number)	Number of cases with medical attention only, on that project (number)	Number of fatalities on that project (number)
Project Executive						
Project Manager						
General Superintendent						
Chief Safety Officer						

Form S Table 2 SAFETY QUESTIONNAIRE FOR EACH FIRM					
NAME OF PROPOSER					
NAME OF FIRM					
ITEM 1 Provide the following information for the past 3 years:		2018	2019	2020	
Total number of employee hours worked (hours) Do not include non-work time, even though paid.					
Number of lost workday cases (number)					
Number of restricted workday cases (number)					
Number of cases with medical attention only (number)					
Number of fatalities (number)					
ITEM 2 (Insert additional rows if needed) Are internal accident reports and report summaries sent to management? To what levels of management are accident reports/summaries sent, and how frequently?					
Management level	Sent?		If yes, frequency sent:		
	NO	YES	Monthly	Quarterly	Annually
ITEM 3					
Do you hold site meetings for supervisors?		YES:		NO:	
How often do you hold site meetings for supervisors?					
Weekly:		Twice a month:		Monthly:	
				Other (specify):	
ITEM 4					
Do you conduct Project Safety Inspections?		YES:		NO:	
How often do you conduct Project Safety Inspections?					

Form S Table 2 SAFETY QUESTIONNAIRE FOR EACH FIRM							
NAME OF PROPOSER							
NAME OF FIRM							
Weekly:		Twice a month:		Monthly:		Other (specify):	
ITEM 5							
Does the firm have a Written Safety Program?				YES:		NO:	
ITEM 6							
Does the firm have an Orientation Program for new hires?				YES:		NO:	
If yes, what safety items are included in the Orientation Program for new hires? (describe below)							
ITEM 7							
Does the firm have a program for newly hired foremen and newly promoted foremen?				YES:		NO:	
If yes, does the program for newly hired or promoted foremen include the following topics?							
Safety work practices				YES:		NO:	
Safety supervision				YES:		NO:	
On-site meetings				YES:		NO:	
Emergency procedures				YES:		NO:	
Accident investigation				YES:		NO:	
Fire protection and prevention				YES:		NO:	
New worker orientation				YES:		NO:	
ITEM 8							
Does the firm hold safety meetings that extend to site laborer level?				YES:		NO:	
If yes, how often do you hold safety meetings that extend to site laborer level?							

Form S Table 2 SAFETY QUESTIONNAIRE FOR EACH FIRM							
NAME OF PROPOSER							
NAME OF FIRM							
Daily:		Weekly:		Twice a month:		Other (specify):	
ITEM 9							
Does the firm hold safety meetings prior to engaging in field activities near the construction work site(s)?				YES:		NO:	
If yes, how often do you hold safety meetings that extend to field activities level?							
Daily:		Weekly:		Twice a month:		Other (specify):	

ITEM 10	2018	2019	2020
Provide the following information for the past 3 years:			
EMR for the current insurance policy:			
EMR for the previous insurance policy (if required):			
EMR for the previous insurance policy (if required):			
<p>If the EMR rate exceeds 1.0 for the most recent year provided, a written explanation, limited to one page, attached to this form, shall be provided and the two previous years EMRs shall be provided by the Workers Compensation Insurance Carrier. The written explanation shall include current safety program and training initiatives directed towards minimizing future work related injuries.</p> <p>For Firms that do not have an EMR, due to work experience outside the US, a frequency rate table or accident incident rate or similar statistics shall be provided indicating the safety record over the last five years.</p> <p>Each firm must all submit a letter from their current workers compensation insurance carrier stating the expiration date of the policy and the current EMR rate. The letter is to be attached to this form.</p>			
ITEM 11			
Provide the following OSHA Specific Information:			

Form S Table 2 SAFETY QUESTIONNAIRE FOR EACH FIRM				
NAME OF PROPOSER				
NAME OF FIRM				
A) Within the last 2 years, has the proposer received any citations classified by OSHA as being (1) serious, (2) willful and/or (3) repeat violations where your company operates? If yes, attach a copy of each such citation and violation.	YES:		NO:	
B) Has the proposer experienced any work-related fatalities within the last five years?	YES:		NO:	
C) Has the proposer had any citations issued by OSHA as a result of work related fatalities within the past 5 years?	YES:		NO:	
D) Is the proposer under investigation for any work-related fatalities?	YES:		NO:	
If your answer is "yes" to 11(b), (c) or (d), provide a copy of the citation(s), list of number(s) of fatalities and documented explanation of the fatality.				

SCHEDULE XXIII – WORKLOAD DISCLOSURE FORM

CURRENT WORKLOAD DISCLOSURE

Contract No. CBX001

This is a Standard Form to provide information concerning the current workload of the firms interested in the project. The values shown should not include fees to be paid to subconsultants and subcontractors or for rentals/purchases of equipment.

PROJECT NAME(S)/LOCATION(S):

FIRM NAME _____

CONTACT PERSON _____

PHONE NUMBER(S) _____

ADDRESS OF OFFICE(S) TO PERFORM WORK:

IS YOUR FIRM a Certified DBE? (YES / NO)

(circle as appropriate)

NUMBER OF PERSONNEL (PROPOSED OFFICE(S)):

ADMINISTRATIVE _____ TECHNICAL _____ PROFESSIONAL _____

I. REMAINING MTA (WORK OF PROPOSED OFFICE(S) (from pg J - 3.) WITH:

_____ DIVISION: \$ _____ DEPARTMENT: \$ _____
(specify) (specify)

II. EXPECTED BILLINGS FOR NEXT 18 MONTHS:

A. MTA WORK; total expected billings in next 18 months. \$ _____

B. WORK WITH OTHER PUBLIC AGENCIES; total expected billings \$ _____

In the next 18 months

C. PRIVATE WORK; total expected billings on projects in the next 18 months. \$ _____

TOTAL (A + B + C) \$ _____

III. CERTIFIED DISADVANTAGE BUSINESS ENTERPRISE (M/WBE) FIRMS(S) FOR FEDERAL AID PROJECTS PROPOSED FOR USE ON THIS PROJECT:

SUBCONSULTANT FIRM NAME & ADDRESS PROPOSED PERCENTAGE WORKLOAD WITH MTA C&D
OF PROJECT _____

(Specify)

_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

IV. OTHER FIRM(S) PROPOSED FOR USE ON THIS PROJECT:

SUBCONSULTANT FIRM NAME & ADDRESS PROPOSED PERCENTAGE WORKLOAD WITH MTA C&D OF PROJECT _____

(Specify)

_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

V. CERTIFICATION

I hereby certify that the above figures are actual contract amounts (when available) or my best estimate of expected billings.

DATE SIGNATURE (OFFICER OR PARTNER)

FIRM NAME: _____
CONTRACT No. _____

REMAINING WORK WITH MTA

List all projects on which you are currently working for the MTA (includes MTA Construction & Development, MTA New York City Transit, MTA Bridges and Tunnels, MTA Long Island Rail Road, MTA Metro North Railroad, MTA Long Island Bus, and MTA Bus) and those which you have been designated to perform. These shall be categorized as indicated below (Design, Construction Inspection or Miscellaneous).

TYPE OF WORK	CONTRACT NUMBER	REMAINING \$ VALUE FIRMWIDE (Include anticipated Amendments) (a)	% OF PROJECT PERFORMED AT PROPOSED OFFICE(S) (b)	PRO-RATED WORKLOAD OF PROPOSED OFFICE(S) (a x b)
--------------	-----------------	--	---	---

DESIGN DIVISION (Includes A/E Design and Construction Support Services):

--	--	--	--	--

TOTAL FIRMWIDE PROPOSED OFFICE(S) DESIGN WORKLOAD: \$ _____

CONSTRUCTION DIVISION (Includes Only Construction Inspection):

--	--	--	--	--

TOTAL FIRMWIDE PROPOSED OFFICE(S) C/I WORKLOAD: \$ _____

MISCELLANEOUS (Includes Planning, Testing and any other agreements not covered above):

--	--	--	--	--

TOTAL FIRMWIDE MISCELLANEOUS PROPOSED OFFICE(S) MISCELLANEOUS WORKLOAD: \$ _____

TOTAL FIRMWIDE OVERALL WORKLOAD PROPOSED OFFICE(S) OVERALL WORKLOAD WITH AUTHORITY:

\$ _____

YOU MAY ATTACH ADDITIONAL SHEETS OF REMAINING WORK FOLLOWING THE SAME FORMAT AS USED ABOVE

SCHEDULE XXIV – NEW YORK STATE SUBCONTRACTORS AND SUPPLIERS

NEW YORK SUBCONTRACTOR/SUPPLIER FORM

Procurement ID Number (CONTRACT NO.):							
Procurement /Contract Title:							
Contractor:							
Address:		City:		State:		Zip Code:	
Contact Name:		Contact Title:			Telephone No.:		

Please Identify the New York State business that will be used for this contract:

Name of NYS Subcontractor or Supplier	Address	City	State	Zip Code	Indicate: "Subcontractor" or "Supplier"	Approx. Dollar Value of Sub/Supplier contract (if available)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						

PRICE PROPOSAL SCHEDULES

<u>Schedule</u>	<u>Description</u>
Schedule XXV	Price Proposal
Schedule XXVI	Total Price Breakdown
Schedule XXVII	Buy America Certification (Non-Rolling Stock)
Schedule XXVIII	Buy America Certification (Rolling Stock)
Schedule XXIX	Surety Letter
Schedule XXX	Insurance Company Letter of Commitment

SCHEDULE XXV – PRICE PROPOSAL

NOTICE: Proposals must be made on this form. All of the Price Proposal must be submitted. ADDENDA THAT CHANGE ANY PART OF THE PRICE PROPOSAL MUST BE ATTACHED HERETO, OR THE CHANGES OTHERWISE CLEARLY INCORPORATED HEREIN. RECEIPT OF ALL ADDENDA MUST BE ACKNOWLEDGED ON THE SCHEDULE PROVIDED. The MTA Construction and Development Company (MTA C&D), in its sole discretion, may treat a failure to annex or acknowledge receipt of Addenda or to attach any part of the Price Proposal as a minor informality where the Addenda or portion of the Price Proposal, as the case may be, is determined by MTA C&D not to be material in nature. MTA C&D reserves the right, in its sole discretion, to waive minor informalities in any Proposal, or to reject any or all Proposals. Execution of Price Proposal must be made in paragraph 6 below.

To: The MTA Construction and Development Company:

1. The undersigned Proposer

*

in pursuance of the purpose, according to the terms therefore, to enter into a contract with MTA C&D for Design-Build Services for the Metro-North Railroad Penn Access Project, CONTRACT NO. CBX001, and to perform all the Work in the accordance with the Contract Documents for the amount specified in the Proposal Price or as otherwise provided in the Contract.

*The Proposer's name must be inserted here. If the Proposal is submitted by a corporation, the full legal title must be given here and a certified copy of the certificate of incorporation must be submitted, together with the names and addresses of the directors and principal officers. If the Proposer is a foreign corporation, proof must also be submitted of its authority to transact business in the State of New York. In case the Proposer has already filed such papers with MTA C&D in connection with another proposal he may so state and may omit such papers in this instance. If the Price Proposal be submitted by a partnership, the above blank must be filed in the following form: "the firm of A.B. & Co., composed of A., B., C., D., etc. (giving the names of all the partners)."

2. It is understood that MTA C&D reserves the right to make changes in the Project which either increase or decrease the amount of the Work to be done by the Contract pursuant to the General Provisions Chapter 8 titled Changes to the Contract.

3. Price:

- (a) The PRICE PROPOSAL must be completely filled out by the Proposer.
- (b) The Proposal Price must be filled out both in words and figures. In case of any discrepancy between the two, the price in words will generally be taken as the proposal price.

- (c) The Proposer hereby affirms that its Proposal is held open and not revocable for a period of **one-hundred-eighty (180) days** from the date the Price Proposal or any Best and Final Offer is submitted to MTA C&D, whichever is later, without regard to any negotiations, counter offers or rejections. This period may be extended by mutual consent of both parties as evidenced in writing by signing a separate written agreement to that effect.

4. Price Certification:

Proposer's Name*

(Insert full legal name)

* The Proposer's name must be inserted here. If the Proposal is submitted by a corporation, an affidavit must be submitted with the Proposal showing the names and addresses of the director and principal officers. If the Proposal is submitted by a firm, the above blank must be filled in the following form: "the firm A. B. & Co., composed of A., B., C., D., etc." (giving the names of all the partners).

The following firm fixed prices apply to all the required Work under the Contract No. CBX001, including the furnishing of all superintendence, supervision, labor, materials, tools, equipment, utilities, permit fees and all other costs, in accordance with the Contract Documents.

The Proposal Price, as increased or decreased pursuant to any specific provisions of the Contract Documents, shall be the full and sole compensation for the performance of the Work.

The proposed cost(s) for the following work shall also be provided.

I. PRICE PROPOSAL: CONTRACT WORK

Proposal price is to be filled out both in words and in figures.

\$

(Lump Sum Fixed Price in Numbers):

.....

.....

.....dollars

and.....cents.

\$_____ (in figures).

Note: Proposer shall provide SCHEDULE XXVI TOTAL PRICE BREAKDOWN.

5. By submission of this Proposal, the Proposer and each person signing on behalf of the Proposer certifies, and in the case of a joint Proposal, each party thereto, certifies as to its own organization, as required by Section 2878 of the Public Authorities Law of the State of New York, under penalty of perjury, that:

- (a) The price(s) in this Proposal have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Proposer or with any competitor;
- (b) Unless otherwise required by law, the price(s) which have been quoted in this Proposal have not been knowingly disclosed by the undersigned and will not knowingly be disclosed by the undersigned prior to Proposal opening, and public disclosure of proposals, directly or indirectly, to any other Proposer or to any competitor;
- (c) No attempt has been or will be made by the undersigned to induce any other person, partnership or corporation to submit or not to submit a Proposal for the purpose of restricting competition.

A Proposal shall not be considered for award nor shall any award be made where (a), (b) and (c) above have not been complied with; provided, however, that if in any case the Proposer cannot make the forgoing certification, the Proposer shall so state and shall furnish with the Proposal a signed statement which sets forth in detail the reasons therefore.

Where (a), (b), and (c) above have not been complied with, the Proposal shall not be considered for award nor shall any award be made unless the Procurement Officer or his designee determines that such disclosure of price information or proposal information was not made for the purpose of restricting competition.

The fact that a Proposer (1) has published price lists, rates, or tariffs covering items being procured, (2) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (3) has sold the same items to other customers at the same prices being proposed, does not constitute, without more information, a disclosure within the meaning of 5(a), 5(b), and 5(c) of this Schedule.

6. Execution of Price Proposal. Proposer is to complete and sign before a Notary Public or Commissioner of Deeds the following Affidavit of Verification section.

Proposer's Full Legal Name

Address

STATE OF _____)

COUNTY OF _____)

(CORPORATE SEAL)

_____ day of _____, 20__.

SCHEDULE XXVI – TOTAL PRICE BREAKDOWN

CBS Code	Description	U.O.M.	Total Cost
1	Bridges		
1.1	Pelham Lane Bridge	LS	
1.2	Bronx River Bridge - Existing	LS	
1.3	Bronx River Bridge - New	LS	
1.4	Bronxdale Avenue Bridge	LS	
1.5	Eastchester Road Bridge	LS	
2	Trackwork (Track, Ballast, Sub-ballast, Grading)		
2.1	Ballasted Track		
2.1a	Passenger Trackwork	LS	
2.1b	Freight Trackwork	LS	
2.1c	Drainage	LS	
2.2	Special Trackwork		
2.2a	Leggett Interlocking	LS	
2.2b	Young Interlocking	LS	
2.2c	Tremont Interlocking	LS	
2.2d	Pelham Bay Interlocking	LS	
2.2e	Bronx Interlocking	LS	
2.2f	Temporary Interlockings	LS	
3	Facilities		
3.1	Co-op City	LS	
3.2	Morris Park	LS	
3.2a	Morris Park Station Relocated North Entrance	LS	
3.3	Parkchester / Van Nest	LS	
3.3a	Parkchester Van Nest Station Secondary Entrance	LS	
3.4	Hunts Point	LS	
4	Site Conditions		
4.1	Demolition	LS	
4.2	Third Party Utilities	LS	
4.3	Site Improvements (Utilities, Retaining wall, Access roads, Noise/vibration mitigations)	LS	
5	Systems		
5.1	Signals	LS	
5.2	AC Substations		
5.2a	Oak	LS	
5.2b	Van Nest	LS	
5.2c	Bowery Bay	LS	
5.2d	Co-op City	LS	
5.2e	New Rochelle	LS	
5.3	DC Substations		
5.3a	DC Substation HG-01	LS	
5.3b	DC Substation HG-02	LS	
5.4	Overhead Contact System (OCS)	LS	
5.5	Third Rail	LS	
5.6	Communications	LS	
6	Design Costs	LS	
7	Indirect Costs		
7.1	Mobilization cost	LS	
7.2	General Conditions	LS	

CBS Code	Description	U.O.M.	Total Cost
8	New Rochelle Yard, CP-215, Annex Substation including Design, General Conditions, and Insurance	LS	
	Total Bid Price	LS	
	Contract Alternates		
CA1	Credit for OCIP Adjustment	LS	

SCHEDULE XXVII – BUY AMERICA CERTIFICATION (Non-Rolling Stock)

If steel, iron, or manufactured products (as defined in 49 C.F.R. §§ 661.3, 661.5) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder, offeror or proposer in accordance with the requirement contained in § 661.13(b) of this part.

CERTIFICATE OF COMPLIANCE WITH BUY AMERICA REQUIREMENTS

The bidder, offeror or proposer hereby certifies that it will comply with the requirements of 49 U.S.C. § 5323(j)(1) and the applicable regulations in 49 C.F.R. Pt. 661.

Date:_____

Signature:_____

Company:_____

Name:_____

Title:_____

CERTIFICATE OF NON-COMPLIANCE WITH BUY AMERICA REQUIREMENTS

The bidder, offeror or proposer hereby certifies that it cannot comply with the requirements of 49 U.S.C. § 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. § 5325(j)(2), as amended, and the applicable regulations in 49 C.F.R. § 661.7.

Date:_____

Signature:_____

Company:_____

Name:_____

Title:_____

SCHEDULE XXVIII – BUY AMERICA CERTIFICATION (Rolling Stock)

If buses or other rolling stock (including train control, communication, and traction power equipment) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder, offeror or proposer in accordance with the requirement contained in § 661.13(b) of this part.

CERTIFICATE OF COMPLIANCE WITH BUY AMERICA ROLLING STOCK REQUIREMENTS

The bidder, offeror or proposer hereby certifies that it will comply with the requirements of 49 U.S.C. § 5323(j) and the applicable regulations in 49 C.F.R. § 661.11.

Date:_____

Signature:_____

Company:_____

Name:_____

Title:_____

CERTIFICATE OF NON-COMPLIANCE WITH BUY AMERICA ROLLING STOCK REQUIREMENTS

The bidder, offeror or proposer hereby certifies that it cannot comply with the requirements of 49 U.S.C. § 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. § 5325(j)(2)(C), as amended, and the applicable regulations in 49 C.F.R. § 661.7.

Date:_____

Signature:_____

Company:_____

Name:_____

Title:_____

SCHEDULE XXIX – SURETY LETTER

The Proposer shall obtain and submit with its Price Proposal evidence of Proposer's ability to obtain Performance and Payment Bonds which satisfy the requirements specified in the Contract Documents.

The Proposer shall submit with its Price Proposal a letter from a surety company stating that the Proposer is capable of obtaining Performance and Payment Bonds, in the penal sum of 100% of the proposed Price, which satisfy the requirements specified in the Contract Documents. The surety company shall be rated at least A-VII by A.M. Best and Company, be listed on Treasury Department Circular 570 and be on the list of companies approved by the State of New York. The letter must specifically state that the surety company has read the RFP and has evaluated the Proposer team's backlog and work-in-progress in determining that the Proposer is capable of obtaining the required Performance and Payment Bonds. Letters indicating "unlimited" bonding/security capability are not acceptable.

SCHEDULE XXX – INSURANCE COMPANY LETTER OF COMMITMENT

The Proposer shall obtain and submit with its Technical Proposal a letter from an insurance company or companies, satisfactory to MTA C&D, that establishes that such insurance company or companies will issue the necessary insurance policies, or evidence of existing policies, required by the Contract Documents.

APPENDICES

Appendix A	STIPEND AGREEMENT
Appendix B	MTA C&D NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT
Appendix C	AMTRAK NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT
Appendix D	ATC FORM
Appendix E	BOND FORMS

APPENDIX A
STIPEND AGREEMENT

**MTA CONSTRUCTION & DEVELOPMENT
CONTRACT NO. CBX001**

**STIPEND AGREEMENT
FOR
DESIGN-BUILD SERVICES FOR
METRO-NORTH RAILROAD
PENN STATION ACCESS PROJECT**

CONTRACT NO. CBX001

PROJECT: Metro-North Railroad Penn Access Project

THIS AGREEMENT (this “Stipend Agreement”), entered into this ____ day of _____, 20__ by the MTA CONSTRUCTION AND DEVELOPMENT COMPANY (hereinafter referred to as the “MTA C&D”) and _____, a _____ (the “Proposer”) with its principal office located at _____.

WITNESSETH:

WHEREAS, MTA C&D has issued a Request for Proposal (the “RFP”) for Contract No. CBX001 (the “Contract”) for all Work required by the RFP Contract Documents to design and construct the Metro-North Railroad Penn Access Project (the “Project”); and

WHEREAS, the Proposer has submitted a proposal (the “Proposal”) in response to the RFP.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein, including all of the provisions of the RFP incorporated by reference, the parties hereto agree as follows:

ARTICLE 1. PROPOSAL.

In order for the Proposer to be eligible for any payment under this Stipend Agreement (the “Stipend Payment”), MTA C&D must first determine, in its sole discretion, that the Proposer’s administrative, technical and cost Proposal: (a) has met the requirements of the RFP and this Agreement; (b) has been prepared in an efficient and expeditious manner and in accordance with all of the terms and provisions of this Agreement; and (c) is 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 the RFP. MTA C&D reserves the right to modify the requirements of the RFP at any time.

ARTICLE 2. WORK PRODUCT AND INTELLECTUAL PROPERTY RIGHTS.

The term “Work Product” means ideas and information, and the expression of ideas or information, included in the Proposal or otherwise submitted or communicated in any manner by or on behalf of the Proposer to MTA C&D during the Project’s procurement process at any time prior to award of the Contract or expiration of the Proposal irrevocability period set forth in the RFP as it may be extended. For the purposes of this Stipend Agreement, Work Product may include any technical concepts and/or technical information contained in the Proposer’s Proposal, such as unique technology, innovation, unique uses of commercial items, design concepts and solutions, construction means and methods, project execution approach, and information that constitutes intellectual property. Work Product does not include any sensitive and confidential financial information regarding the Proposer included in the Proposal.

By entering into this Stipend Agreement and accepting the Stipend Payment, the Proposer grants to MTA C&D the perpetual, unlimited right to use or permit the use of the Work Product, inclusive of technical concepts contained therein, for any purpose, including work on the Project, without any obligation to pay any additional compensation to the Proposer.

With respect to any Work Product that incorporates intellectual property owned or developed by the Proposer, the Proposer's team members or other third parties, the Proposer represents and warrants that it has the right to grant MTA C&D irrevocable, non-exclusive, perpetual, royalty-free licenses to use such intellectual property for the purposes specified herein. As of the date of this Stipend Agreement, the Proposer hereby grants such licenses to MTA C&D, and agrees to indemnify and hold harmless MTA C&D from any and all claims, costs, expenses, and damages of any kind resulting from infringement allegations related to MTA C&D's exercise of the intellectual property rights granted herein.

The foregoing shall not be deemed a requirement for the Proposer to provide off-the-shelf software to MTA C&D.

ARTICLE 3. EFFECTIVE DATE.

Unless otherwise provided herein, this Stipend Agreement shall be deemed effective as of the date hereof and shall continue in full force and effect unless terminated by MTA C&D, in whole or in part, in its sole discretion.

ARTICLE 4. PROVISION FOR PAYMENT.

A) As consideration for the Work Product discussed in Article 2, above, MTA C&D shall pay the amount of \$1,500,000.00 (the "Stipend Payment") to the Proposer if the Proposer is not awarded the Contract, provided the Proposal has met the following requirements:

- 1) The Proposal is a detailed substantive technical proposal that meets or exceeds all requirements in the RFP;
- 2) The Proposal includes sufficient detail to clearly identify and reflect all design and technical concepts explored in developing the final design solutions for this Project; and
- 3) The Proposal contains a reasonable and competitive price for the Project.

MTA C&D, in its sole discretion, will determine whether or not the Proposal meets these requirements.

B) Notwithstanding any other provision of this Stipend Agreement, the Proposer will not be eligible to receive the Stipend Payment if the Proposer is awarded the Contract. If the

Proposer receives the Stipend Payment and is awarded the Contract thereafter, then the Proposer shall credit the Stipend Payment to MTA C&D toward the first payment or payments earned by the Proposer under the Contract.

- C) If the Proposer is not awarded the Contract prior to expiration of the Proposal irrevocability period set forth in the RFP as it may be extended and wishes to receive the Stipend Payment, it must execute this Stipend Agreement and provide the executed Stipend Agreement to the Procurement Officer no later than twenty (20) calendar days after the expiration of such period.
- D) The Proposer shall submit a single invoice for payment of the Stipend Payment not later than sixty (60) days after the Stipend Agreement is fully executed.
- E) Within thirty (30) days of receipt of the Proposer's invoice, subject to the requirements and limitations set forth herein, MTA C&D shall issue the Stipend Payment to the Proposer and the Proposer agrees to accept the same as full compensation for its services under this Stipend Agreement including transfer of the right to use all Work Product.
- F) A failure by the Proposer to comply with the provisions of **ARTICLE 4** of this Stipend Agreement constitutes a waiver of any right to payment of a Stipend Payment.
- G) No liability shall be incurred by MTA C&D hereunder beyond the amount of the Stipend Payment as specified in paragraph (A) of this Article.

ARTICLE 5. PAYMENT OF STIPEND AND WAIVER OF CLAIMS.

- A) The Proposer is required, if it is a foreign or out of state corporation or entity, to obtain and submit the required tax clearance certificate to MTA C&D to enable the processing of the Stipend Payment. Any time taken to satisfy or furnish this tax clearance certificate shall extend any required payment date by an equal period of time.
- B) Acceptance by the Proposer of the Stipend Payment from MTA C&D shall constitute a waiver by the Proposer of any and all rights, equitable or otherwise, to bring any claim or protest against MTA C&D, or any of its officers, directors, agents, employees, representatives or advisers and its successors and assigns, in connection with the procurement of this Project, including, without limitation, the procurement process, any award of the Contract or any cancelation of the procurement.

ARTICLE 6. PROCUREMENT OFFICER.

The following person, or his successor, is the MTA C&D's Procurement Officer:

Name: Everett McIndoe

Title: Assistant Director, Procurement
MTA Construction and Development Company
Address: 2 Broadway
Phone: 646-252-6393
Email: Everett.McIndoe@mtacd.org

ARTICLE 7. PROPOSER'S REPRESENTATIVE.

The following person, or his/her successor, is the Proposer's Authorized Representative:

Name:
Title:
Address:
Phone:
Email:

ARTICLE 8. NEW YORK STATE FINANCE LAW §§ 139-j and 139-k CERTIFICATIONS.

By execution of this Stipend Agreement, the Proposer certifies that all information the Proposer has provided to MTA C&D with respect to the **NEW YORK STATE FINANCE LAW §§ 139-j and 139-k** is complete, true and accurate. MTA C&D shall have the right to terminate this Stipend Agreement if MTA C&D finds the certification made by the Proposer in accordance with **NEW YORK STATE FINANCE LAW §§ 139-j and 139-k** was intentionally false or intentionally incomplete.

ARTICLE 9. PROPOSER LIABILITY.

Without limiting any other obligations of the Proposer under this Stipend Agreement, the Proposer shall indemnify and save harmless MTA C&D from claims, suits, actions, damages, and costs of every name and description resulting from the performance of the services of the Proposer under this Stipend Agreement including, without limitation, claims founded upon tort; claims based upon the Proposer's failure to meet professional standards; or claims based upon breach of copyright, trade secrets, or other protected material. Nothing in this Stipend Agreement shall create or give to third parties any claim or right of action against the Proposer or MTA C&D.

ARTICLE 10. RESPONSIBILITY OF THE PROPOSER.

- A) The Proposer shall be responsible for the professional quality, technical accuracy, and the coordination of all services furnished by the Proposer under this Stipend Agreement.

- B) Neither MTA C&D's review, approval, or acceptance of, or payment for, the services required under this Stipend Agreement, as applicable, shall be construed to operate as a waiver of any rights under this Stipend Agreement or of any cause of action arising out of the performance of this Stipend Agreement, and the Proposer shall be and remain liable to MTA C&D in accordance with applicable law for all damages caused by the Proposer's negligent performance or breach of contract of any of the services furnished under this Stipend Agreement.
- C) The rights and remedies of MTA C&D provided for under this Stipend Agreement are in addition to any other rights and remedies provided by law.
- D) If the Proposer is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

ARTICLE 11. MISCELLANEOUS TERMS

- A) All of the Proposer's team members and subcontractors shall be bound by the same provisions of this Stipend Agreement as the Proposer. All agreements between the Proposer and Proposer's team members and/or subcontractors shall include provisions effectuating this term, and all such agreements shall be subject to review by MTA C&D.
- B) Proposer shall not assign or transfer any rights or obligations under this Stipend Agreement without the prior written consent of MTA C&D. Any attempted assignment or transfer without such consent shall be void.
- C) Any Amendment to this Stipend Agreement must be in writing and will not be effective until it has been executed and approved by the same parties that executed and approved this Stipend Agreement, or their successors.
- D) If MTA C&D fails to enforce any provision of this Stipend Agreement, that failure does not waive the provision or MTA C&D's right to subsequently enforce it.
- E) This Stipend Agreement contains all prior negotiations and agreements between the parties. No other understanding regarding this Stipend Agreement, whether written or oral, may be used to bind either party.
- F) All confidentiality provisions of the RFP shall continue to apply to the Proposer.
- G) All capitalized terms used in this Stipend Agreement and not otherwise defined have the meanings ascribed to such terms in the RFP.
- H) If any clause, provision, section or Article of this Stipend Agreement is ruled invalid by a court having proper jurisdiction, the invalidity or unenforceability of any such clause, provision,

section or Article shall not affect the validity or enforceability of the balance of this Stipend Agreement, which shall be construed and enforced as if this Stipend Agreement did not contain such invalid or unenforceable clause, provision, section or Article.

I) Anything herein to the contrary notwithstanding, the obligations of the Proposer under Article 2 of this Stipend Agreement shall survive any expiration or termination of the Stipend Agreement.

J) This Stipend Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflicts of interest principles.

ARTICLE 12. POWER TO EXECUTE THE STIPEND AGREEMENT

The undersigned representative of the Proposer certifies that he or she has full and complete authority to bind the Proposer, the Proposer's team members, and subcontractors to all terms and conditions of this Stipend Agreement, and that by executing the Stipend Agreement does so bind such entities.

IN WITNESS WHEREOF, the parties have caused this Stipend Agreement to be executed effective on the day and year first above written.

MTA CONSTRUCTION AND DEVELOPMENT COMPANY

BY _____
[TITLE]

PROPOSER

[COMPANY NAME]

BY _____
[TITLE]

APPENDIX B

MTA C&D NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (the "Agreement"), dated as of _____, 2020, by and between MTA CONSTRUCTION AND DEVELOPMENT COMPANY, a New York public benefit corporation ("MTA C&D"), and _____, a _____ ("Recipient") (MTA C&D and Recipient being collectively referred to herein as the "Parties").

WHEREAS, MTA C&D has commenced a procurement process (the "Procurement") for MTA C&D Contract No. CBX001, Design-Build Services for Metro-North Railroad Penn Access Project (the "Contract"); and

WHEREAS, the Contract calls for the provision of certain services pertaining to the design, construction and installation of the Metro-North Railroad Penn Access Project (the "Project");

WHEREAS, the Procurement contemplates (i) issuance by MTA C&D of a Request for Qualifications ("RFQ"), intended to solicit Statements of Qualifications ("SOQs") from design-build teams interested in submitting proposals to design and construct the Project in accordance with the Contract; (ii) based on the SOQs that are submitted, establishment of a short list of design-build teams who are adjudged the best qualified to perform the services required under the Contract, (iii) issuance of a Request for Proposals ("RFP"), intended to solicit proposals from design-build teams on such short list; and (iv) selection of a design-build team whose proposal, in response to the RFP, is adjudged to provide the best overall value to MTA C&D (the selected proposer being referred to as the "Design-Builder"); and

WHEREAS, Recipient has submitted an SOQ to MTA C&D and has been advised that it has been placed on the short list of design-build teams invited to submit a proposal in response to the RFP, when it is formally issued; and

WHEREAS, each of the short listed design-build teams has been invited to attend a one-on-one meeting or meetings with MTA C&D, to receive additional information about the Project and to provide input to MTA C&D in formulating the RFP; and

WHEREAS, in the course of participating in the Procurement, Recipient may be provided by MTA C&D or by its parent, the Metropolitan Transportation Authority ("MTA") or its affiliates Metro-North Commuter Railroad Company and Long Island Rail Road Company ("LIRR") (MTA C&D, MTA, MNR and LIRR (individually and collectively "MTA Group") with certain information about MTA Group, its operations and facilities and the Project, which is considered by MTA Group as confidential, proprietary, trade secret or security-sensitive information; and

WHEREAS, Recipient acknowledges that improper disclosure of any such information could undermine the integrity of the Procurement and the ability of MTA C&D to advance the design and construction of the Project; and

WHEREAS, the Parties therefore wish to enter into this Agreement to protect and safeguard the confidentiality of all such information received by Recipient from MTA Group.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Parties hereto agree as follows:

1. This Agreement extends to all documents and materials relating to the Procurement, the Contract or the Project (including, without limitation, software, data, prototypes, designs, plans, drawings, specifications, photographs, videotapes, agreements, contacts, financial information or other business or technical information) that MTA Group determines is proprietary, confidential, trade secret or security-sensitive and is marked by MTA Group as “Confidential Information”, disclosed by the MTA Group to Recipient pursuant to or in connection with its participation in the Procurement or, if Recipient is awarded the Contract, pursuant to the Contract (collectively, the “Confidential Information”). Without limiting the generality of the foregoing, Confidential Information shall be deemed to include all documents, analyses, studies or other materials prepared by Recipient that contain or reflect Confidential Information, including, without limitation, security assessments, evaluations and recommendations.

2. Recipient shall keep all Confidential Information confidential and shall not, without the prior written consent of MTA C&D, disclose or reveal any Confidential Information to any person other than other persons who are actively and directly participating on behalf of Recipient in the Procurement, or, if Recipient is awarded the Contract, participating on behalf of Recipient in the performance of the Contract, but only to the extent that such other persons have a need to know such Confidential Information for the purpose of advancing the Procurement or, if Recipient is awarded the Contract, performing the Contract, and who agree to be bound by the terms and conditions of this Agreement and sign and deliver to Recipient an Acknowledgment in the form attached to this Agreement as Attachment A. Recipient shall maintain a file containing all such signed Acknowledgments and provide copies thereof to MTA C&D upon MTA C&D’s request.

3. Within seven (7) days after execution of this Agreement, Recipient shall, in a writing delivered to MTA C&D, describe where Confidential Information disclosed to Recipient will be kept or stored, and the methods and procedures to be used by Recipient to protect and safeguard all Confidential Information, and to prevent the unauthorized duplication or distribution thereof. Such methods and procedures shall be consistent with the requirements contained in the MTA Security Sensitive Information Handbook. MTA C&D reserves the right to periodically audit Recipient’s security methods and procedures to ensure that they are being applied consistently and that they are consistent with such requirements.

4. MTA C&D may create an inventory of all Confidential Information disclosed to Recipient and, upon request by MTA C&D, Recipient shall check all Confidential Information provided to it against such inventory and confirm that it has taken steps to protect and safeguard Confidential Information in accordance with the terms hereof.

5. This Agreement shall survive any termination of the Procurement, the return or destruction of Confidential Information, or the termination of any other agreement, whether in effect prior to or after the date of this Agreement. This Agreement shall not merge with, or be

terminated or superseded by any future agreement between the Parties unless such future agreement specifically so provides.

6. Recipient shall use all Confidential Information disclosed to it/him/her solely to advance the Procurement or, if Recipient is awarded the Contract, to perform the Contract, and for no other purpose.

7. MTA Group grants Recipient no right, title or interest of any kind in any intellectual property contained in or relating to the Confidential Information. At any time upon the written request of MTA C&D, Recipient shall, at its option, (i) promptly return all Confidential Information in its possession to MTA C&D without retaining any copies, summaries or extracts thereof, or (ii) promptly destroy all Confidential Information in its/his/her possession without retaining any copies, summaries or extracts thereof. In addition, all documents, analyses, studies or other materials prepared by Recipient that contain or reflect Confidential Information (“Confidential Material”) shall be destroyed and no copies thereof shall be retained by Recipient. Within ten (10) business days of such written request by MTA C&D, Recipient shall confirm in writing that all Confidential Material has been destroyed, and all Confidential Information has been returned or destroyed as applicable.

8. As soon as Recipient learns that it/he/she may or will be legally compelled to disclose Confidential Information or Confidential Material (whether by interrogatories, subpoenas, civil investigations, or otherwise) or is requested to disclose Confidential Information or Confidential Material by a governmental authority or agency, or pursuant to freedom of information laws, Recipient shall promptly notify MTA C&D and keep MTA C&D well-informed of any developments with respect to that compulsion or request. Recipient shall cooperate with MTA C&D to enable MTA C&D to obtain a protective order or other similar relief or to narrow the scope of such legal compulsion or request.

9. In the event of any breach of this Agreement or threatened breach hereof, MTA Group shall be entitled to injunctive and other equitable relief, and Recipient shall not plead in defense thereto that there would be an adequate remedy at law, and Recipient waives any applicable right or requirement that a bond be posted by MTA Group.

10. If at any time, any person or firm who/which has received Confidential Information or Confidential Material from Recipient in accordance with the terms hereof, has been discharged or terminated by Recipient, or is no longer participating with Recipient in the Procurement or, if Recipient has been awarded the Contract, is no longer participating with Recipient in the performance of the Contract, Recipient shall terminate all access of such person or firm to Confidential Information or Confidential Material and shall cause such person or firm to surrender and relinquish all Confidential Information or Confidential Material he/she/it has received to Recipient.

11. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes any previous agreements, whether written or oral with respect to such subject matter. This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

The Agreement may not be amended except by a written document signed by both of the Parties hereto.

12. No waiver of any provision of this Agreement, or of any breach thereof, shall be effective unless it is in writing and signed by the Party waiving such provision or breach hereof. No waiver of a breach of this Agreement (whether express or implied) shall constitute a waiver of any subsequent breach hereof.

13. All provisions of this Agreement are severable, and the unenforceability of any of the provisions of this Agreement shall not affect the validity or enforceability of the remaining provisions of this Agreement.

14. In the event Recipient is a joint venture, execution of this Agreement by the joint venture shall be deemed an agreement by all members of the joint venture to be bound by and observe the terms and conditions hereof.

15. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to its conflicts of laws principles.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

MTA CONSTRUCTION AND
DEVELOPMENT COMPANY

RECIPIENT: _____
(Print Name)

By _____
Title:

By _____
Title:

Date:

Date:

ATTACHMENT A
ACKNOWLEDGMENT

Background

A. MTA CONSTRUCTION AND DEVELOPMENT COMPANY (“MTA C&D”) and _____ (“Recipient”) have entered into a NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (“Agreement”) dated as of _____, 2020.

B. The undersigned has received and read a copy of the Agreement.

C. The Agreement relates to a procurement process for MTA C&D Contract No. CBX001 (the “Procurement”).

D. The undersigned is participating on behalf of Recipient in the Procurement or in performance of MTA C&D Contract No. CBX001.

E. Recipient may disclose Confidential Information (as defined in the Agreement) to the undersigned.

In consideration of the opportunity to participate in the Procurement or in performance of MTA C&D Contract No. CBX001, the undersigned agrees as follows:

1. The undersigned shall keep all Confidential Information (as defined in the Agreement) confidential and shall not disclose or reveal any Confidential Information to any other person except as permitted by the Agreement.

2. The undersigned shall be bound to Recipient and MTA C&D, to the same extent as Recipient is bound, by all other terms and conditions of the Agreement applicable to Recipient and shall comply with all such terms and conditions.

NAME OF UNDERSIGNED:

By:_____

Name:_____

Title:_____

Date:_____

APPENDIX C

AMTRAK NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

AMTRAK NON-DISCLOSURE
AND CONFIDENTIALITY AGREEMENT
AMTRAK SENSITIVE SECURITY INFORMATION

This NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (“Agreement”) is entered into and is effective as of the _____ day of _____, _____ (the “Effective Date”) by and between National Railroad Passenger Corporation (“Amtrak”), a corporation organized under 49 U.S.C. § 24101 et seq. and the laws of the District of Columbia, having a principal place of business at 1 Massachusetts Ave., N.W., Washington, D.C. 20001 (“Amtrak”) and _____, a _____ corporation (“Consultant”) (each a “Party” and collectively the “Parties”). References to a Party include that Party’s subsidiaries and affiliated entities.

Amtrak and Consultant each (as the “Disclosing Party”) are willing to disclose Confidential Information to the other (the “Receiving Party”) solely for the purpose (the “Permitted Purpose”) of the use of such Confidential Information in connection with: discussing one or more potential business transactions relating to Consultant’s Business Continuity Management application and services related to such application (the “Permitted Purpose”).

In consideration of the mutual promises made in this Agreement, and to protect the Confidential Information, the Parties agree as follows:

1. Definition of Confidential Information. The Receiving Party acknowledges and agrees that “Confidential Information” means any and all non-public, confidential and proprietary information furnished by the Disclosing Party to the Receiving Party. By way of example, and not limitation, such Confidential Information may include plans, drawings, diagrams, specifications, contract documents, construction documents, engineering documents, technical and non-technical data, signal information, operating rules and timetables, product plans, trade secrets, research, hardware, engineering models, formulas, patterns, designs, compilations, computer programs and software (including source and object code), third- party reports and analysis devices, inventions, methods, techniques, processes, research, business plans, financial data, marketing data, lists of actual or potential customers and suppliers, photographs, videotapes, or other such documents of any nature or description. Confidential Information shall expressly include any and all information derived from the foregoing Confidential Information and shall include all the Amtrak Party Security Sensitive Information (SSI), as that term is defined in Section 3.1 below.

2. Obligations. Unless otherwise agreed to in writing by the Disclosing Party, the Receiving Party agrees (a) to keep all Confidential Information in strict confidence and not to disclose or reveal any Confidential Information to any person (other than such Receiving Party employees, subcontractors or subcontractor employees who are actively and directly involved in the Permitted Purpose and who have a need to know the Confidential Information and who have agreed to keep the Confidential Information confidential in accordance with the terms and conditions of this Agreement (“Representatives”), (b) not

to use Confidential Information for any purpose other than in connection with the Permitted Purpose. The Receiving Party shall treat all Confidential Information of the Disclosing Party by using the same degree of care, but no less than a reasonable degree of care, as it accords its own Confidential Information, provided, however that Amtrak Security Sensitive Information shall be handled and stored in accordance with Section 3.2 below. The Receiving Party agrees that it shall not disclose such Confidential Information to any Representatives until the Receiving Party requires such Representatives who desire to receive Confidential Information and who satisfy the conditions above to be bound by the terms and conditions of this Agreement. Additional personnel may be added to the list of Representatives only upon written consent by the Disclosing Party. Subcontractors of the Receiving Party to which the Receiving Party proposes to disclose Confidential Information are subject to the prior written approval of the Disclosing Party.

3. Security Sensitive Information (SSI)

3.1. As used herein, “Amtrak Security Sensitive Information” shall mean any information or data as defined by Title 49 Code of Federal Regulations, Part 1520, which includes, but without limitation, technical information, security studies, threat correspondence, investigative information, research and development activities, operating procedures, emergency services plans, construction plans, engineering plans, studies, reports, drawings, specifications, calculations and other materials and information that is provided by or on behalf of Amtrak to Consultant and is conspicuously identified as Amtrak Security Sensitive Information by markings, notice or otherwise.

3.2. Consultant will maintain the security of all documents, working papers, designs, and other materials related to Amtrak that contain Amtrak Security Sensitive Information in an environment with a password protected feature, or a secure container, such as a locked file cabinet, locked desk, or safe. Following execution of this Agreement by both parties and prior to its receipt of Amtrak Security Sensitive Information Consultant shall notify Amtrak the manner and location where the Amtrak Security Sensitive Information is stored, and the safeguards Consultant will undertake in order to prevent any unauthorized access or duplication of the Amtrak Security Sensitive Information during the time period such information is in the possession of the Receiving Party. Consultant warrants that its employees, the Consultants, sub-consultant, subcontractors and agents shall not retain any of the materials containing Amtrak Security Sensitive Information or copies of such materials after completion of its work on the Project.

4. Legally Required Disclosure. In the event the Receiving Party is required by law, regulation or court order to disclose any of the Confidential Information, the Receiving Party shall promptly notify the Disclosing Party in writing prior to making any such disclosure in order to facilitate the Disclosing Party seeking a protective order or other appropriate remedy from the appropriate body. The Receiving Party agrees to cooperate with the Disclosing Party in seeking such order or other remedy. The Receiving Party further agrees that if the Disclosing Party is not successful in precluding the requesting legal authority from requiring the disclosure of the Confidential Information, the Receiving Party will furnish only that portion of the Confidential Information that is legally required to be disclosed.

5. Return or Destruction of Confidential Information. The Receiving Party agrees to return to the Disclosing Party all written materials embodying Confidential Information or to destroy such materials promptly, including all copies made by the Receiving Party, at the request of the Disclosing Party or upon termination of this Agreement. The Receiving Party agrees to provide the Disclosing Party a destruction certificate if so requested. Notwithstanding the return or destruction of Confidential Information, the Receiving Party will continue to be bound by the terms of this Agreement. Notwithstanding the foregoing, the Receiving Party may retain Confidential and SSI that: (a) is required to be maintained for compliance purposes under a document retention policy, applicable law, professional standards, or court or regulatory agency requirement; or (b) has been created electronically or in ordinary course of archiving, security, or disaster recovery systems, provided however, that such retained information shall remain subject to this Agreement and shall continue to be treated as Confidential or SSI for all purposes under this Agreement.

6. Equitable Relief; Attorneys' Fees and Court Costs. The Receiving Party acknowledges that any use or disclosure of the Confidential Information that is inconsistent with the restrictions set forth in this Agreement may cause immediate irreparable harm to the Disclosing Party for which there may be no adequate remedy at law. Accordingly, the Receiving Party agrees that the Disclosing Party shall be entitled to seek immediate and permanent injunctive relief from a court of competent jurisdiction in the event of any such breach or threatened breach. The Receiving Party agrees and stipulates that the Disclosing Party shall be entitled to such injunctive relief without posting a bond or other security. The Receiving Party further agrees that the Disclosing Party shall be entitled to reasonable attorneys' fees and other court costs and expenses, upon the finding by a court of competent jurisdiction of a breach of this Agreement. Nothing contained herein shall limit the Disclosing Party's rights to any remedies at law, including the recovery of damages from the Receiving Party for breach of this Agreement.

7. Duty to Notify. The Receiving Party agrees that it shall immediately notify the Disclosing Party in writing of any known or suspected disclosure, access or use of the Confidential Information that is not authorized under this Agreement.

8. Third-Party Beneficiaries. To the extent the Disclosing Party discloses, or provides for the disclosure of, Confidential Information of a third-party, that third-party shall be a third-party beneficiary to this Agreement and shall be entitled to enforce this Agreement directly against the Receiving Party as the third-party's interests may warrant.

9. Audit. The Disclosing Party reserves the right to audit the Receiving Party's security practices and procedures (and those of its contractors and agents, as applicable) to ensure compliance with the terms of this Agreement.

10. Term, Continuing Obligation. The term of this Agreement shall be (10) years. The obligations and restrictions with respect to any particular confidential Information shall extend for ten (10) years after the expiration or earlier termination of this Agreement, except with respect to trade secrets or Amtrak Sensitive Security Information, as to which Consultant's obligations under this Agreement shall be perpetual or until time as Amtrak no longer considers such information to be trade secrets or Amtrak Security Sensitive

Information, as the case may be. Provisions which by their sense and context are meant to survive termination of this Agreement shall so survive.

11. Successor and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of either party, provided that this Agreement may not be assigned by the Receiving Party without the prior written consent of the Disclosing Party.

12. Relation between the Parties. The Receiving Party acknowledges that all Confidential Information disclosed to it is, and shall remain, the property of the Disclosing Party and nothing contained herein shall be construed as granting to or conferring upon the Receiving Party any rights, by license or otherwise, in any intellectual property. Nothing in this Agreement shall be deemed to create a partnership or joint venture between the parties.

13. Severability. In case any of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such provisions(s) had never been contained herein, provided that such provision(s) shall be curtailed, limited or eliminated only to the extent necessary to remove the invalidity, illegality or unenforceability.

14. Governing Law. This Agreement will be construed in accordance with the laws of the District of Columbia, without regard to any choice of law provisions. Each party irrevocably agrees to submit to personal and exclusive jurisdiction, and that venue is proper, in the federal courts of the District of Columbia.

15. Notices. All notices under this Agreement shall be deemed to have been duly given upon the certified or registered mailing thereof, postpaid to the party entitled thereto at the following addresses, unless such addresses are changed by written notice:

Chief Legal Officer, General Counsel & Corporate Secretary
National Railroad Passenger Corporation
One Massachusetts Ave. NW
Washington D.C. 20001

16. Entire Agreement, Modifications. This Agreement embodies the entire understanding between the parties and supersedes all prior agreements relative to its subject matter, and no modification of this Agreement shall be binding upon any Party, unless duly executed by both Parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

For Amtrak:

For _____:

John Carroll
Senior Director
Business Services, Corporate Security

Printed Name
Title

Dated: _____

Dated: _____

APPENDIX D

ATC FORM

METRO-NORTH RAILROAD PENN ACCESS PROJECT – ATC SUBMITTAL FORM

Instructions

Refer to Section 7.0 of Volume 0 of the RFP for complete instructions. Any information specified therein shall be provided regardless of whether such information is requested on this ATC Form. Any attachments to an ATC submission should be labeled to clearly indicate the related heading.

Proposer Name: [Proposer to provide]

Date: [Proposer to provide]

MTA Construction & Development Contract No. CBX001 RFP: ATC Submission No. [].[]¹²

A. Background Information

1. Prior Submission(s)

- ☐ None (this is the initial submission of this ATC)
- ☐ Previously Submitted

2. Explanation of Reason for Resubmission

[Proposer to provide, indicate “N/A” if not previously submitted]

3. Request for Discussion at One-on-One Meeting

- ☐ Meeting Requested
- ☐ Meeting Not Requested

4. Priority of ATCs (only if multiple ATCs submitted)

[Proposer to provide order of ATC priority]

B. ATC Submission Requirements

1. Overview Description

A brief summary overview of the proposed ATC.

[Proposer to provide]

2. Rationale

Explanation of how, where, and why the ATC would be used.

[Proposer to provide]

3. Relevant RFP Requirements

List all material RFP requirements that are inconsistent with, and would require modifications to accommodate, the proposed ATC, including any proposed non-conformance with minimum criteria specified in the standards, policies, and specifications set out in the RFP.

[Proposer to provide]

4. Anticipated Impacts

¹² ATCs shall be numbered sequentially (1.0, 2.0, etc.), with each successive related submission to be indicated with a version number e.g. 1.0 followed by 1.1, 1.2, etc.

A preliminary analysis of the following potential impacts (positive and negative), including specific separate identification and analysis of any such impacts that are not reflected in the final environmental decision documents. If not applicable, indicate “Not applicable” with a brief explanation as to why.

- (a) Schedule and Time Certainty Impacts: *[Proposer to provide]*
- (b) Cost and Price Impacts: *[Proposer to provide]*
- (c) Quality Impacts: *[Proposer to provide]*
- (d) Aesthetic Impacts: *[Proposer to provide]*
- (e) Force Account Impacts: *[Proposer to provide]*
- (f) Environmental Impacts: *[Proposer to provide]*
- (g) Health & Safety Impacts: *[Proposer to provide]*
- (h) Level of Service Impacts (during and after construction): *[Proposer to provide]*
- (i) Operations and Maintenance Impacts: *[Proposer to provide]*
- (j) Risk Allocation Impacts: *[Proposer to provide]*
- (k) Third Party Impacts: *[Proposer to provide]*
- (l) Workforce and Labor Impacts: *[Proposer to provide]*
- (m) Other Impacts: *[Proposer to provide]*

5. Cost and Benefit Analysis

An estimate of the impact (whether greater or smaller) on the Proposal Price; and on the life-cycle costs including the impact on ongoing operations, maintenance, and repair.

[Proposer to provide]

6. Schedule Analysis

An estimate (which can, at the Proposer’s discretion, unless otherwise requested by MTA C&D, be limited to an order of magnitude) of likely design and construction time period impacts (positive and negative) of such ATC, including reference to assumptions on which such estimate is based.

[Proposer to provide]

7. Conceptual Drawings

Conceptual drawings shall be at a design level sufficient to demonstrate: (i) proposed integration of ATC into overall Project if ATC is approved, (ii) changes between proposed ATC and design without ATC, (iii) any required changes to any other Project elements to allow integration, and (iv) compliance with all applicable technical and safety standards, including applicable codes.

[Proposer to provide]

8. Past Use

A detailed description of other projects where the solution proposed in the ATC has been used under comparable circumstances, if any; the success of such usage; and names, email addresses and contact telephone numbers of project owners that can confirm such statements.

[Proposer to provide]

9. Additional Information or Requirements

Additional information or requirements, if needed, or as otherwise requested by MTA C&D.

[Proposer to provide]

10. Risks

To the extent not otherwise addressed by the responses above, an analysis of any additional risks to MTA C&D, or third parties associated with implementation of the ATC, including discussion of how such risks are, or are proposed to be, allocated under the terms of the Contract (taking into account such Contract terms as expressly reference risk allocation in relation to ATCs).

[Proposer to provide]

11. List of Required Approvals

A list of required, or likely to be required, governmental or third-party approvals and permits.

[Proposer to provide]

12. Property Requirements

A list of additional property requirements, if any, and a description of when additional properties would be required in order to implement the ATC.

[Proposer to provide]

13. Deviations

(a) List all RFP requirements that are inconsistent with the proposed ATC.

[Proposer to provide]

(b) Explanation of the nature of the proposed deviations.

[Proposer to provide]

(c) Request for: (a) approval of such deviations; or (b) a determination that the ATC is consistent with applicable requirements.

[Proposer to provide]

(d) Attach in the form of a mark-up (for amendments to existing drafting) and/or a rider (with respect to newly proposed drafting) proposed revisions to address the above inconsistencies.

[Proposer to provide, provided that Proposer may defer pending initial MTA C&D review of the ATC]

APPENDIX E

BOND FORMS

CONTRACT _____

Know All Men by These Presents, That

, of

(hereinafter called the "Contractor") and

(hereinafter called the "Surety"), are held and firmly bound unto

The METROPOLITAN TRANSPORTATION AUTHORITY

(hereinafter called the "MTA" or the "Authority") in the sum of dollars (\$), lawful money of the United States of America, to be paid to the MTA, for which payment well and truly to be made, the Contractor and the Surety do hereby bind themselves jointly and severally and their, and each of their executors, administrators, successors and assigns firmly by these presents.

WHEREAS, the Contractor is seeking to enter, or has entered, into a contract known as Contract _____, _____, a copy of which Contract is annexed to and hereby made a part of this bond as though herein set forth in full:

NOW, THEREFORE, the conditions of this obligation are such that if the Contractor, his or its representatives or assigns, shall well and faithfully perform the said contract and all modifications, amendments, additions and alterations thereto that may hereafter be made, according to its terms and its true intent and meaning, including repair and/or replacement of defective work and guarantees of maintenance for the periods stated in the Contract, and shall fully indemnify and save harmless the MTA from all cost and damage which it may suffer by reason of failure so to do, and shall fully reimburse and repay the Authority for all outlay and expense which the MTA may incur in making good any such default, and shall protect the MTA against, and pay any and all amounts, damages, costs and judgments which may or shall be recovered against the MTA or their officer or agents or which the MTA may be called upon to pay any person or corporation by reason of any damages arising or growing out of the doing of said work, or the repair or maintenance thereof, or the manner of doing the same, or the neglect of the said Contractor, or his (their, its) agents or servants, or the infringement of any patent rights by reason of the use of any materials furnished or work done as aforesaid or otherwise, then this obligation shall be null and void, otherwise to remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees, if requested to do so by the Authority, to fully perform and complete the Project to be performed under the Contract, pursuant to the terms, conditions, and covenants thereof, if for any cause, the Contractor fails or neglects to so fully perform and complete such Project. The Surety further agrees to commence such work of completion within twenty (20) days after written notice thereof from the MTA and to complete such Project within such time as the MTA may fix.

The Surety, for value received, for itself and its successors and assigns, hereby stipulates and agrees that the obligation of said surety and its bond shall be in no way impaired or affected by any extension of time, modification, omission, addition, or change in or to the said Contract or the Project to be performed thereunder, or by any payment thereunder before the time required therein, or by any waiver of any provisions thereof, or by any assignment, subletting or other transfer thereof or of the Project to be performed or any monies due or to become due thereunder; and said surety does hereby waive notice of any and all of such extensions, modifications, omissions, additions, changes, payments, waivers, assignments, subcontracts and transfers, and hereby expressly stipulates and agrees that any and all things done and omitted to be done by and in relation to assignees, subcontractors, and other transferees shall have the same effect as to said Surety as though done or omitted to be done by or in relation to said Contractor.

IN WITNESS WHEREOF, the Contractor and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereunto affixed and these presents to be signed by their proper officers, this

_____ day of _____, 202__

(Seal)

(Contractor) (L.S.)

By _____
President

Attest:

Secretary

(Seal)

Surety

By _____

If the Contractor is a partnership, the bond should be signed by one of the partners in the firm name.

If the Contractor is a corporation, the bond should be signed in its correct corporate name by a duly authorized officer, agent, or attorney-in-fact.

There should be executed an appropriate number of counterparts of the bond corresponding to the number of counterparts of the Contract.

ACKNOWLEDGMENT OF CONTRACTOR, IF A CORPORATION

STATE OF _____)
) ss.:
COUNTY OF _____)

On this _____ day of _____, 202__
before me personally came _____
to me known, who, being by me duly sworn, did depose and say that he resides
at _____ that he is the _____
_____ of _____
the corporation described in and which executed the foregoing instrument; that he knows the seal
of said corporation; that one of the seals affixed to said instrument is such seal; that it was so
affixed by order of the directors of said corporation, and that he signed his name thereto by like
order.

Notary Public

ACKNOWLEDGMENT OF CONTRACTOR, IF PARTNERSHIP

STATE OF _____)
)ss.:
COUNTY OF _____)

On this _____ day of _____, 202____,
before me personally appeared _____
to me known and known to me to be one of the members of the firm of _____

described in and who executed the foregoing instrument and he acknowledged to me that he
executed the same as and for the act and deed of said firm.

Notary Public

ACKNOWLEDGMENT OF CONTRACTOR, IF AN INDIVIDUAL

STATE OF _____)
) ss.:
COUNTY OF _____)

On this _____ day of _____, 202____,

before me personally appeared _____

to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same.

Notary Public

Each executed bond should be accompanied by (a) appropriate acknowledgments of the respective parties; (b) appropriate duly certified copy of Power of Attorney or other certificate of authority where bond is executed by agent, officer or other representative of Contractor or Surety; (c) a duly certified extract from By-Laws or resolutions of Surety under which Power of Attorney or other certificate of authority of its agent, officer or representative was issued, and (d) duly certified copy of latest published financial statement of assets and liabilities of Surety.

Affix Acknowledgments and Justification of the Surety.

CONTRACT _____

Know All Men by These presents, That

, of

(hereinafter called the "Contractor") and

(hereinafter called the "Surety"), are held and firmly bound unto

THE METROPOLITAN TRANSPORTATION AUTHORITY

(hereinafter called the "MTA" or the "Authority"), in the sum of _____ dollars (\$ _____), lawful money of the United States of America, to be paid to the MTA, for which payment well and truly to be made, the Contractor and the Surety do hereby bind themselves jointly and severally and their, and each of their executors, administrators, successors and assigns firmly by these presents.

WHEREAS, the Contractor is seeking to enter, or has entered, into a contract know as Contract _____, a copy of which Contract is annexed to and hereby made a part of this bond as though herein set forth in full:

NOW, THEREFORE, the conditions of this obligation are such that if the Contractor, his or its representatives or assigns and other subcontractors to whom work under this Contract is sublet and his or their successors and assigns shall promptly pay or cause to be paid all lawful claims for

(a) Wages and compensation for labor performed and services rendered by all persons engaged in the prosecution of the Project under said Contract, and any amendment or extension thereof or addition thereto, whether such persons are agents, servants or employees of the Contractor or of any such subcontractor, including all persons so engaged who perform the work of laborers or mechanics at or in the vicinity of the site of the Project regardless of any contractual relationship between the Contractor or subcontractors, or his or their successors or assigns, on the one hand and such laborers or mechanics on the other, but not including office employees not regularly stationed at the site of the Project; and

(b) Materials and supplies (whether incorporated in the permanent structure or not), as well as vehicles, fuels, oils, implements or machinery furnished, used or consumed by said Contractor or any subcontractor at or in the vicinity of the site of the Project in the prosecution of the Project under said Contract and any amendment or extension thereof or addition thereto; then this obligation shall be void; otherwise to remain in full force and effect.

This bond is subject to the following additional conditions, limitations and agreements:

(a) The Contractor and Surety agree that this bond shall be for the benefit of any material man or laborer having a just claim, as well as the Authority itself.

(b) All persons who have performed labor, rendered services or furnished materials and supplies as aforesaid, shall have a direct right to action against the Contractor and his, its or their successors and assigns, and the Surety herein, or against either or both of any of them and their successors and assigns. Such person may sue in his own name, and may prosecute the suit to judgment and execution without the necessity of joining with any other person as party plaintiff.

(c) The Contractor and Surety agree that neither of them will hold the Authority liable for any judgment for costs or otherwise, obtained by either or both of them against a laborer or materialman in a suit brought by either a laborer or materialmen under this bond for moneys allegedly due for performing work or furnishing material.

(d) The Surety or its successors and assigns shall not be liable for any compensation recoverable by an employee or laborer under the Worker's Compensation Law.

(e) In no event shall the Surety, or its successor or assigns, be liable for a greater sum than the amount of his bond or be subject to any suit, action or proceeding hereon that is instituted by any person, firm, or corporation hereunder later than two years after the complete performance of said Contract and final settlement thereof.

The Contractor, for himself and his successors and assigns, and the Surety, for itself and its

successors and assigns, do hereby expressly waive any objection that might be interposed as to the right of the Authority to require a bond containing the foregoing provisions, and they do hereby further expressly waive any defense which they or either of them might interpose to an action brought hereon by any person, firm or corporation, including subcontractors, materialmen and third persons, for work, labor, services, supplies or material performed, rendered, or furnished as aforesaid upon the ground that there is no law authorizing the Authority to require the foregoing provisions to be placed in this bond.

And the Surety, for value received, for itself and its successors and assigns, hereby stipulates and agrees that the obligation of said Surety, and its bond shall be in no way impaired or affected by any extension of time, modification, omission, addition, or change in or of the said Contract or the Work to be performed thereunder, or by any payment thereunder before the time required therein, or by any waiver of any provision thereof, or by any assignment, subletting or other transfer thereof or of any part thereof, or of any work to be performed or any monies due or to become due thereunder and said Surety does hereby waive notice of any and all of such extensions, modifications, omissions, additions, changes, payment, waivers, assignments, subcontracts and transfers, and hereby expressly stipulate and agrees that any and all things done and omitted to be done by and in relation to assignees, subcontractors, and other transferees shall have the same effect as to said Surety as though done or omitted to be done by or in relation to said Contractor.

IN WITNESS WHEREOF, the Contractor and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereunto affixed and these presents to be signed by their proper officers, this _____ day of _____, 202__ of

(Seal)

(Contractor)

By _____
President

Attest:

Secretary

(Seal)

Surety

By _____

If the Contractor is a partnership, the bond should be signed by one of the partners in the firm name.

If the Contractor is a corporation, the bond should be signed in its correct corporate name by a duly authorized officer, agent, or attorney-in-fact.

There should be executed an appropriate number of counterparts of the bond corresponding to the number of counterparts of the Contract.

ACKNOWLEDGEMENT OF CONTRACTOR, IF A CORPORATION

STATE OF _____)
)ss.:
COUNTY OF _____)

On this _____ day of _____, 202__
before me personally came _____
to me known, who, being by me duly sworn, did depose and say that he resides
at _____ that he is
the _____ of _____

the corporation described in and which executed the foregoing, instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such seal; that it was so affixed by order of the directors of said corporation, and that he signed his name thereto by like order.

Notary Public

ACKNOWLEDGMENT OF CONTRACTOR, IF A PARTNERSHIP

STATE OF _____)
) ss.:
COUNTY OF _____)

On this _____ day of _____, 202__
before me personally appeared _____
to me known and known to me to be one of the members of the firm of _____

described in and who executed the foregoing instrument and he acknowledged to me that he
executed the same as and for the act and deed of said firm.

Notary Public

ACKNOWLEDGMENT OF CONTRACTOR, IF AN INDIVIDUAL

STATE OF _____)
) ss.:
COUNTY OF _____)

On this _____ day of _____, 202__

before me personally appeared _____

to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same.

Notary Public

Each executed bond should be accompanied by (a) appropriate acknowledgments of the respective parties; (b) appropriate duly certified copy of Power of Attorney or other certificate of authority where bond is executed by agent, officer or other representative of Surety; (c) a duly certified extract from By-Laws or resolutions of Surety under which Power of Attorney or other certificate of authority of its agent, officer or representative was issued, and (d) duly certified copy of latest published financial statement of assets and liabilities of Surety.

Affix Acknowledgments and Justification of the Surety.

CONTRACT _____

Know All Men by These Presents, that*

, of

(hereinafter called the "Bidder") and**

(hereinafter called the "Surety") are held and firmly bound unto the **Metropolitan Transportation Authority** (hereinafter called the "MTA" or the "Authority"), in the sum of

dollars (\$ _____), lawful money of the United States of America, to be paid to the MTA for which payment well and truly to be made, the Bidder and the Surety do hereby bind themselves jointly and severally and their, and each of their executors, administrators, successors and assigns firmly by these presents.

*Insert Bidders name. If corporation, give the State or incorporation, using also the phrase "a corporation organized under the laws of _____" If partnership, give full names of partners, using also the phrase, "co-partners, doing business under the firm name of _____" If an individual using a trade name, give individual name, using also the phrase, "an individual doing business under the trade name of _____"

**Insert name of Surety.

WHEREAS, the Bidder is about to submit or has submitted to the Authority the accompanying Bid hereby made a part hereof, to enter into a contract known as CONTRACT _____, _____, annexed to and hereby made a part of this bond as though herein set forth in full:

NOW, THEREFORE, the conditions of this obligation are such that if the Bidder shall perform all its obligations created by the submission of said Bid as provided in the Bidder Requirements Section hereby made a part hereof;

or if the Authority shall reject the aforesaid Bid for a reason other than the Bidder's "default regarding a Bid" as set forth in the Bidder Requirements Section, then this obligation shall be null and void; otherwise to remain in full force and effect.

PROVIDED, however, that this bond is subject to the following additional conditions and limitations:

(a) In the event that the Bidder "defaults regarding a Bid", the undersigned will upon demand pay to the Authority as damages in accordance with the provisions of the Bidder Requirements Section.

(b) It is expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall in no event exceed the amount of this obligation as herein stated.

The Surety for value received hereby stipulates and agrees that the obligations of the Surety and its bond shall in no way be impaired or affected by any postponements of the date upon which the Authority will receive or open bids, or by any extensions of the time within which the Authority may accept the Bidder's Bid, or by any waiver by the Authority of any of the requirements contained in the Bidder Requirements Section or the Form or Bidder's Bid; and the Surety hereby waives notice of any such postponements, extensions, or waivers.

IN WITNESS WHEREOF, the bidder and the Surety have hereunto set their hands and seals and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers the ____day of _____, 20__.

(Seal)

Bidder (L.S.)

By _____
President

Attest:

Secretary

(Seal)

By _____

Surety

NOTE: If the bidder is a corporation and this bond is signed by an Officer other than the President or a Vice-President, the bidder shall furnish a certified copy of by-law or resolution authorizing said Officer to sign, unless same as previously been furnished to the Authority.

ACKNOWLEDGMENT OF BIDDER, IF A CORPORATION

STATE OF _____)
) ss.:
COUNTY OF _____)

On this _____ day of _____, 202__

before me personally came _____

to me known, who, being by me duly sworn, did depose and say that he resides

at _____

that he is the _____

of _____

the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such seal; that it was so affixed by order of the directors of said corporation, and that he signed his name thereto by like order.

Notary Public

ACKNOWLEDGMENT OF BIDDER, IF A PARTNERSHIP

STATE OF _____)
) ss.:
COUNTY OF _____)

On this _____ day of _____, 202__
before, me personally appeared _____
to me known and known to me to be one of the members of the firm of _____

described in and who executed the foregoing instrument and he acknowledged to me that he
executed the same as and for the act and deed of said firm.

Notary Public

ACKNOWLEDGMENT OF BIDDER, IF AN INDIVIDUAL

STATE OF _____)
) ss.:
COUNTY OF _____)

On this _____ day of _____, 202____
before me personally appeared _____
to me known and known to me to be the person described in and who executed the foregoing
instrument and acknowledged that he executed the same.

Notary Public

Each executed bond should be accompanied by (a) appropriate acknowledgments of the respective parties; (b) appropriate duly certified copy of Power of Attorney or other certificate of authority where bond is executed by agent, officer or other representative of Surety; (c) a duly certified extract from By-Laws or resolutions of Surety under which Power of Attorney or other certificate of authority of its agent, officer or representative was issued, and (d) duly certified copy of latest published financial statement of assets and liabilities of Surety.

Affix Acknowledgments and Justification of the Surety