



NORTH TEXAS TOLLWAY AUTHORITY

**NORTH TEXAS TOLLWAY AUTHORITY
03565-NTT-00-CS-IT
TELECOM AND DARK FIBER MANAGEMENT PROGRAM**

**PROPOSALS DUE:
February 19, 2013 @ 2:00pm CST
At the following location:
NORTH TEXAS TOLLWAY AUTHORITY
Attn: Procurement Services
5900 West Plano Parkway, Suite 100
Plano, Texas 75093**

**PRE-PROPOSAL MEETING:
January 31, 2013 @ 10:00am CST
At the following location:
NTTA Boardroom
5900 West Plano Parkway, Suite 200
Plano, Texas 75093**

Vendor Information Page

Please Print or Type

FIRM'S NAME: _____

FIRM'S PHYSICAL ADDRESS: _____

CITY/STATE/ZIP: _____

FIRM'S MAILING ADDRESS: _____

CITY/STATE/ZIP: _____

TELEPHONE NUMBER: _____

FAX NUMBER: _____

EMAIL ADDRESS: _____

TAXPAYER IDENTIFICATION NUMBER: _____

The undersigned affirms that he or she is authorized to submit the firm's response to this RFP and execute a contract between the firm and the North Texas Tollway Authority. The undersigned further affirms that all of the statements and representations made in the response were made based on reasonable inquiry and are complete and accurate to the best of the knowledge of the undersigned. The NTTA reserves the right to reject any response found to contain false, misleading or inaccurate information. By signing and submitting this response the firm certifies that it understands the terms and conditions of this RFP and that it agrees with such terms and conditions except those to which it specifically objects in writing.

FIRM'S AUTHORIZED AGENT

AUTHORIZED AGENT'S SIGNATURE

TITLE

"I acknowledge receipt of each addendum to this RFP 03565-NTT-00-CS-IT."

Check all that apply.

<input type="checkbox"/>				
Addendum #1	Addendum#2	Addendum #3	Addendum #4	Addendum #5

ATTENTION ALL RESPONDENTS: THIS FORM MUST BE COMPLETED AND INCLUDED WITH YOUR RESPONSE – IT SHOULD BE PLACED IN A SECTION OF YOUR RESPONSE LABELED "REQUIRED FORMS AND DOCUMENTS"

REQUIRED RESPONSE CHECKLIST:

The following checklist is provided as a convenience to aid Proposers in responding to this RFP. The items shown in the checklist must be included in your response.

- Vendor Information Form
- Confidentiality and Non-Disclosure Statement-Attachment A
- Conflict of Interest Questionnaire, Affidavit and Supplement to Conflict of Interest Questionnaire-Attachment B
- Diversity Compliance Forms (Commitment Form NTTA 4906)-Attachment C
- Cost Proposal -Attachment E
- Addenda acknowledgements, if applicable (the signed acknowledgement form must be included in the response to the RFP)

Questions about the RFP should be directed via e-mail to Mr. Ryan Williams, Senior Buyer, at rwilliams2@ntta.org no later than February 6, 2013 @ 4:00pm CST.

I. INTRODUCTION

A. BACKGROUND

The North Texas Tollway Authority (NTTA) is a regional tollway authority governed by Chapter 366 of the Texas Transportation Code authorized to acquire, construct, maintain, repair and operate turnpike projects in the North Texas region. The NTTA serves its member counties of Collin, Dallas, Denton and Tarrant and is responsible for the NTTA System, consisting of the Dallas North Tollway, the President George Bush Turnpike, Sam Rayburn Tollway, Addison Airport Toll Tunnel, Lewisville Lake Toll Bridge and the Mountain Creek Lake Bridge, and the NTTA Special Projects System, consisting of the President George Bush Turnpike – Western Extension and the Chisholm Trail Parkway. The NTTA is governed by a nine-member board of directors (Board) with two members appointed by each of the four NTTA member counties. A ninth member is appointed by the Governor of Texas. The following individuals currently serve on the NTTA Board of Directors:

Chairman Kenneth Barr (Tarrant County)
Vice Chairman Bill Moore (Collin County)
Victor T. Vandergriff (Tarrant County)
Jane Willard (Collin County)
David R. Denison (Denton County)
Matrice Ellis-Kirk (Dallas County)
George “Tex” Quesada (Dallas County)
Michael R. Nowels (Denton County)
William D. Elliott (Governor’s appointee)

More information on the NTTA can be obtained by visiting the NTTA’s web site at www.ntta.org.

B. INTENT

The purpose of this solicitation is to solicit proposals for a Telecom and Dark Fiber Management Program.

Sealed proposals marked RFP 03565-NTT-00-CS-IT will be received by Director of Procurement Services, North Texas Tollway Authority, 5900 West Plano Parkway, Suite 100, Plano, TX, 75093.

Proposals will be accepted until February 19, 2013, 2:00pm CST. Proposals submitted after this date and time will be returned unopened to the submitting firm/individual. The Authority will require strict compliance with the sealing, marking and timely delivery of all submittals.

NTTA is not responsible for delays caused by the U.S. Postal Service, the internal mail delivery system of the NTTA, or any other means of delivery employed by the Proposer. Similarly, the NTTA is not responsible for, and will not open, any proposal responses which are received later than the date and time indicated above. The time stamp device in the customer reception lobby is the official time clock used for the purpose of the due date and time of the proposals. Any

discrepancies between this official time clock and any other time keeping devices are not the responsibility of the NTTA.

The NTTA reserves the right, in its sole discretion, to waive any technicality in a response to this RFP, provided such action is in the best interests of the NTTA. Where the NTTA waives minor technicalities in a Proposal, such waiver does not modify the RFP requirements or excuse the Respondent from full compliance with the RFP. Notwithstanding the waiver of any minor technicalities, the NTTA holds all Respondents to strict compliance with the RFP.

C. TELEGRAPHIC/ELECTRONIC PROPOSAL RESPONSES

Proposal responses sent by facsimile machines or email are not acceptable and will be rejected upon receipt. Vendors will be expected to allow adequate time for delivery of their proposal responses either by airfreight, postal services, or by other means.

D. TERMS OF CONTRACT

The contract will become effective upon final execution of contracts by both parties. There are two phases to this contract. Phase I will have a contract term of one year. Phase II will have a multiyear term. The initial contract period will be for a period of three years. The initial contract may be extended at the Authority's option for up to (2) two additional (1) one year periods. This contract may be terminated by the NTTA with a thirty (30) day written notice to the other party regardless of the reason.

E. INQUIRIES

Questions about this RFP should be directed in writing, via e-mail to Senior Buyer Ryan Williams at rwilliams2@ntta.org, no later than February 6, 2013 by 4:00PM CST. Correspondence with individuals other than those listed herein will not be allowed:

North Texas Tollway Authority
5900 West Plano Parkway, Suite 100
Plano, TX 75093
Attn. Director of Procurement Services
RFP 03565-NTT-00-CS-IT

From the issuance date of this RFP until a firm/individual is selected and the selection is announced, firms are not allowed to communicate regarding this RFP with any NTTA officer, employee or consultant. Any inquiry regarding this RFP must be directed to the contact listed above. The NTTA reserves the right to disqualify any Proposer who is found in violation of this provision. No questions other than written via email will be accepted, and no response other than written will be binding upon the Authority. Written responses to questions will be provided to all recipients of the RFP.

F. INTERPRETATIONS AND ADDENDA

No interpretation or modification made to any Proposer as to the meaning of the RFP will be binding on the North Texas Tollway Authority unless submitted in writing and distributed as an addendum by NTTA. Interpretations and/or clarifications must be requested in writing and directed to Director of Procurement Services at the address or e-mail noted above. Information obtained otherwise will not be considered in awarding of contract. All addenda will become part of the RFP.

G. LANGUAGE, WORDS USED INTERCHANGEABLY

The word AUTHORITY, Authority or NTTA refers to the NORTH TEXAS TOLLWAY AUTHORITY throughout this document. Similarly, Respondent, Vendor, and Proposer refer to the person or company submitting an offer to sell its goods or services to the Authority. The words Proposal and, Quotation, are all offers from the Proposer. NTTA has established for the purposes of this RFP that the words “must” or “will” are equivalent in this RFP and indicate a mandatory requirement or condition, the material deviation from which will not be waived by the Authority. A deviation is material if, at the sole discretion of the Authority, the deficient response is not in substantial accord with this RFP’s mandatory condition requirements. The words “should” and “may” are equivalent in the RFP and indicate very desirable conditions or requirements but are permissive in nature. Deviation from, or omission of, such a desirable condition or requirement will not in and of itself cause automatic rejection of a proposal, but may result in being considered as not in the best interest of the Authority.

H. SCOPE

(ATTACHMENT D)

II. RESPONSE TO THIS RFP

A. EXAMINATION OF RFP DOCUMENTS

Failure of any Proposer to receive or examine any form, instrument, addendum or other document will in no way relieve any Proposer from any obligation with respect to their proposal or to any contract resulting from this proposal. The submission of a proposal will be taken as conclusive evidence of compliance with this condition. Failure to meet this condition may result in rejection of any offering on this proposal.

B. PROPRIETARY INFORMATION

Any proprietary information contained in the Response must be so indicated with the following notation in BOLD letters at the top and bottom of the page, THIS PAGE CONTAINS PROPRIETARY INFORMATION. A general statement that the entire content or major portion, of the Response is proprietary will not be honored. Firms should be aware that all information submitted is subject to public disclosure under the provisions of the Texas Public Information Act (Chapter 552 of the Texas Government Code)

C. PROPOSAL SUBMITTAL GUIDELINES

Proposals should be as brief and concise as possible, providing relevant information and excluding marketing materials. Responses are limited to 30 pages (8.5x11), single sided and will include typed text, graphics, charts and photographs. Charts and Exhibits may be a larger size but must be folded to the standard size when submitted. Each proposal must include all of the following content in each of the following sections:

1. Cover Letter: A brief one-page cover letter should summarize key elements of the proposal. The cover letter should include the name, address and telephone number of the proposer and all key personnel that will assist in providing the requested equipment and service. The letter should be signed by an individual authorized to submit the required information to the NTTA.
2. Table of Contents: Describe the contents of the proposal (one page)
3. Vendor Information Page: An individual authorized to bind the consultant's firm must sign the vendor information page. Indicate the address and telephone number of the contact person for this assignment. (This does not count against your total of 30 pages)
4. Technical Proposal: This technical proposal section should discuss in detail your Project Approach for this procurement. It should include project approaches for Phase I and Phase II.
 - a. Provide what primary tools, equipment, software and hardware you plan to use
 - b. Identify your approach, and how you will make it effective and efficient
 - c. Describe your project management approach for coordination and communication between you, the NTTA, and prospective tenants.
 - d. Provide any assumptions you are utilizing in preparing your proposal and approach.
 - e. Based on your approach, provide what NTTA resources will be required and percentage of usage for those resources.
 - f. Schedule: Provide a detailed projected schedule. This schedule should give NTTA an idea for how long is needed to complete the project.
5. Firm Experience and Qualifications:
 - a. A brief descriptive statement indicating the Proposer's credentials to deliver services sought under this RFP.
 - b. Areas of specialization.
 - c. A brief description of Proposer's background and organizational history.
 - d. List of all awards, certifications and recognitions received that are applicable to Telecom and Dark Fiber Management services.
 - e. Years in business.
 - f. Location of offices.
 - g. Form of business (i.e., individual, sole proprietor, corporation, non-profit, joint venture, Limited Liability Company, etc.)
 - h. A statement as to whether Proposer or any of the Proposer's employees, agents, independent contractors, or subcontractors have been convicted of or plead guilty to any felony; and if so, an explanation providing relevant details.
 - i. A personnel roster of key staff who will be assigned by Proposer to perform services under the agreement.
 - j. Details of any failed agreements, and/or refusal to complete an agreement within the last (5) years. If an agreement has been cancelled or terminated, provide

name, address and phone number of the client who terminated the agreement.
Explain reasons for cancellation.

6. References: Provide the names and contact person(s) of your firms five (5) most relevant references for which your firm has provided equipment and services comparable to the equipment and services described herein over the past five (5) years. At a minimum, the following information should be included for each reference:
 - a. Name, address and contact information of references, including email address (reference should be the appropriate staff member that was associated with that project)
 - b. Description and scope of work
 - c. Explanation of perceived relevance of the experience to the RFP

7. Cost Proposal

(ATTACHMENT E)

III. PROPOSAL REQUIREMENTS

A. SUBMISSION OF PROPOSALS

The proposer must submit one (1) original hard copy and five (5) additional hard copies of the complete written proposal to:

Procurement Department – Director of Procurement Services
North Texas Tollway Authority
5900 West Plano Parkway, Suite 100
Plano, TX 75093

The Proposer should clearly mark the outermost envelope of the submittal with RFP 03565 Telecom and Dark Fiber Management Program. The NTTA is not responsible for submittals received but not clearly marked. It will be the responsibility of each bidder to deliver its proposal to the NTTA Director of Procurement at the above listed address before or by the time listed above for its bid to be considered. The NTTA customer receptionist will stamp the date and time on the proposal envelope upon receipt and this will serve as the official date and time used for the bid opening purpose. Any discrepancies between the official time and any other time keeping devices will not be the responsibility of the Authority. Faxed, oral, or telephoned bids will not be accepted. Late bids will be returned unopened.

B. SCHEDULE OF EVENTS

Public notification/advertisement	January 18, 2013
	January 25, 2013
Pre-Proposal Meeting	January 31, 2013, 10:00am CST
Deadline for submitting questions	February 6, 2013 4:00pm CST
RFP Responses due	February 19, 2013 2:00pm CST

Questions concerning the RFP are due in writing via e-mail to Senior Buyer Ryan Williams at rwilliams2@ntta.org. All responses to such questions will be distributed to all potential Proposers.

C. OFFICIAL TIME CLOCK

The time stamp device in the customer reception lobby is the official time clock used for the purpose of the due date and time of the proposals. Any discrepancies between this official time clock and any other time keeping devices are not the responsibility of the NTTA. Late proposals will be returned unopened to the submitting firm.

D. PROPERTY OF NORTH TEXAS TOLLWAY AUTHORITY

All copies and contents thereof of any proposal, attachment, and explanation thereto submitted in response to this RFP, except copyrighted material, will become the property of the Authority regardless of the proposer selected. All copyrighted material must be clearly marked indicating the copyrighted status. NTTA will be held harmless from any claims arising from the release of proprietary information not clearly designated as such by the proposing firm.

E. EVALUATION OF PROPOSALS

Proposals will be evaluated on the basis of their responses to all provisions of this RFP. The Authority may use some or all of the criteria below in its evaluation and comparison of proposals submitted. The stage I criterion listed is not necessarily an all-inclusive list.

- Technical Proposal 35%
- Experience and Qualifications 25%
- References 10%
- Cost Proposal 30%

The NTTA may bring short listed Proposers in for stage II evaluations. The criteria used in the second stage may be different from the criteria above. However, the NTTA may choose to use the same criteria from stage I, or use some or all of the stage I scoring during stage II evaluations.

IV. ADDITIONAL TERMS & CONDITIONS

A. OPEN RECORDS

Respondents are advised that information included in a proposal is subject to the Texas Public Information Act, Chapter 552 of the Texas Government Code (the Act). Information a third party submits to or prepares on behalf of NTTA is subject to the Act and must qualify for an exception provided by the Act to be withheld from public disclosure. Information is not confidential under the Act simply because the party submitting the information anticipates or requests that it be kept confidential. NTTA cannot bring information within an exception to disclosure under the Act merely through a contract or agreement to keep the information confidential. Accordingly, a Respondent whose proposal may include information that the Respondent believes in good faith to be proprietary or commercial information and that the Respondent otherwise keeps

confidential for competitive reasons is responsible for identifying and proving that such information qualifies for an exception to public disclosure under the Act. Each item of such information must be separately and conspicuously labeled "Confidential Proprietary Information." NTTA, its directors, officers, employees, agents, and attorneys will not be liable for any disclosure of any information submitted in a response to this RFP. By submitting a proposal, the Respondent waives any claim against, and releases from liability, NTTA, its directors, officers, employees, agents, and attorneys with respect to disclosure of any information included in the proposal, including information labeled as "Confidential Proprietary Information." The Respondent also authorizes NTTA, at its sole option, to submit any information contained in the proposal, including information the Respondent has labeled as being proprietary, to the Office of the Attorney General for a determination as to whether any such information submitted by the Respondent may be excepted from public disclosure under the Act, either by its provisions alone or in conjunction with other law. For the purpose of asking the Office of the Attorney General to determine whether an exception to disclosure exists for information the Respondent deems to be proprietary, NTTA will submit to the Attorney General only that information the Respondent has specifically labeled "Confidential Proprietary Information."

B. AWARD NON-EXCLUSIVE

NTTA may award one or more contracts to each Proposer. There will be no minimum amount of services awarded any Proposer under this RFP. The successful Proposers will assume total responsibility for all deliverables awarded to them. Further, the NTTA will consider the successful Proposers to be the sole point of contact with regard to contractual matters, including payment of all charges resulting from the contract. No sub-contractor will be paid directly by NTTA. The successful Proposers will be solely responsible for the success of the portion of the entire project awarded to them under this RFP.

C. INVOICING

All invoices must agree with the purchase order in description and price and must include a Purchase Order Number and a Ship-to department name and address. If the invoice does not agree with the purchase order, credits or a correct invoice will be required in order for the Authority to process payment. Invoices that do not reference an authorized Purchase Order will be returned to the Vendor.

In order to ensure prompt payment, ALL ORIGINAL INVOICES MUST BE SENT TO:

North Texas Tollway Authority
Accounts Payable
Post Office Box 260729
5900 West Plano Parkway
Suite 100
Plano, TX 75093

D. THIRD-PARTY “REMIT-TO”

If a Proposer has a third-party “remit-to” company, that information must appear on the Proposer’s response. NTTA will send payment to the company designated on the Proposer’s. However, the Authority will not be responsible for resolving payment issues should the Proposer change payment processing companies after a payment has been mailed or without 45-day written notification to the Purchasing and Accounting divisions of NTTA.

E. TAX EXEMPT AUTHORITY

All payments to be made by the Authority to the Vendor pursuant to the Contract are inclusive of federal, state, or other taxes, if any, however designated, levied, or based. The Authority is a tax-exempt entity under Sections 151.309, et seq., of the Texas Tax Code. Title to any consumable items purchased by the Vendor in performing the Contract will be deemed to have passed to the Authority at the time the Vendor takes possession or earlier, and such consumable items must immediately be marked, labeled, or physically identified as the property of the Authority, to the extent practical.

F. STATEMENT OF CONFIDENTIALITY

Proposer agrees that any information accessed or gained in performance of those duties will be maintained in absolute confidence and will not be released, discussed, or made known to any party or parties for any reason whatsoever, except as required in the conduct of duties required, or where disclosure is required by law or mandated by a court of law. Proposers must submit the “Confidentiality and Non-disclosure Statement, Attachment A and return it with their proposals in a section labeled “REQUIRED NTTA FORMS”.

G. LAWS AND REGULATIONS

All applicable State of Texas and federal laws, ordinances, licenses and regulations of a governmental body having jurisdiction will apply to the award throughout as the case may be, and are incorporated here by reference. Any contract executed based on award of this RFP must stipulate that governing law will be the State of Texas.

H. INCURRING COSTS

All costs incurred in preparing the Proposal, or costs incurred in any other manner by the respondent in responding to this Request for Proposal, will be wholly the responsibility of the respondent. All materials, supporting materials, correspondence and documents submitted in response to this Request for Proposal will become the property of NTTA and will not be returned.

I. NEGOTIATIONS

NTTA reserves the right to negotiate the terms and conditions of the contract with any of the evaluated Proposers. Should the successful Proposer and NTTA fail to come to an agreement, the Authority may at its sole discretion award services to any of the remaining Proposers. The Proposer to whom the contract is awarded will be required to enter into a written contract with

NTTA in a form approved by legal counsel for the Authority. This RFP and the proposal, or any part thereof, will be incorporated into and made a part of the final contract.

J. CLARIFICATION

Respondent may be requested to provide additional information and/or clarify contents of their proposal package. Other than information requested by the Authority, no proposer will be allowed to alter the proposal or add new information after the final filing date.

K. HOLD HARMLESS AGREEMENT

Proposer agrees to protect, defend, indemnify and hold harmless NTTA and its DIRECTORS, OFFICERS, AGENTS and employees from any and all costs, claims, and damages of every kind and nature made, including attorneys' fees, rendered or incurred by or in behalf of every person or corporation whatsoever, including the parties hereto and their employees that may arise, occur, or grow out of any acts, actions, work or other activity done by the Proposer, its employees, sub-contractors or any independent contractor working under the direction of either the Proposer or subcontractor in the performance of this contract.

L. CONFLICT OF INTEREST QUESTIONNAIRE AND CONFLICT OF INTEREST & DISCLOSURE AFFIDAVIT

A Conflict of Interest Questionnaire and Conflict of Interest and Disclosure Affidavit are attached as Attachment B, and incorporated herein for all purposes; both must be signed and returned with Respondent's completed proposal, additionally the affidavit must be notarized. These completed forms must be included in the section labeled "REQUIRED NTTA FORMS".

M. EQUAL OPPORTUNITY

Each Proposer submitting a proposal agrees not to refuse to hire, discharge, promote, demote, or to otherwise discriminate in matters of compensation against any person otherwise qualified solely because of race, creed, sex, sexual orientation, gender identity, veteran status, national origin, ancestry or physical handicap.

N. BUSINESS DIVERSITY POLICY INFORMATION

The Business Diversity Department (BDD) information related to this procurement can be found in Attachment C.

O. DISCLAIMER OF LIABILITY

The Authority will NOT hold harmless or indemnify any successful Proposer for any liability whatsoever.

P. INSURANCE

Insurance requirements for this project can be found in Attachment F. If selected for this project the selected firm will be required to provide proof of all coverage and waivers described in Attachment F. Failure or inability to provide proof of these insurance requirements will render

the proposers submittal for this project to be deemed non-responsive and the NTTA will reject the proposal in its entirety.

Q. LICENSES/CERTIFICATES

NTTA reserves the right to require documentation that each Proposer is an established business and is abiding by the Ordinances, Regulations, and Laws of their community and the State of Texas.

If you are required by any regulatory agency to maintain professional license or certification to provide any product and/or service solicited under this RFP, the Authority reserves the right to require you to provide documentation of your current license and/or certification before considering your proposal and/or before awarding a contract.

R. GENERAL

NTTA expressly reserves the right to reject any or all proposals, in whole or in part; or to re-propose; and to make the award on merit and/or features of design, quality, delivery, and service as determined to be in the best interest of the Authority.

S. GUARANTEE

Proposer certifies by proposing, that he is fully aware of the conditions of service and purpose for which services included in this RFP are to be purchased, and that his offering will meet the requirements of service and purpose to the satisfaction of the NTTA and its Agent.

T. SAMPLE CONTRACT

A sample contract has been provided in Attachment G included herein. If chosen for this project firms would be expected to sign a contract substantially similar to the sample provided in Attachment G, it is therefore recommended that all firms review the sample contract.

U. REVOLVING DOOR

The NTTA has adopted an Employee Ethics Policy that includes the following “revolving door” provision: “An employee after leaving NTTA employment will not participate on behalf of any third party in a matter involving the NTTA in which the employee participated while employed at the NTTA. For purposes of this subsection, an employee participated in a matter if the employee made a decision or recommendation on the matter, approved, disapproved or gave advice on the matter, conducted an investigation related to the matter, or took similar action related to the matter.” Absent express written approval from the NTTA, Contractor will not direct or allow a former NTTA employee to do any work on behalf of the Contractor that might put the former employee in violation of this provision.

V. VENDOR POLICING OF EMPLOYEE ETHICS POLICY

The NTTA has adopted an Employee Ethics Policy, which, among other things, directs employees to avoid conflicts of interest or appearances of impropriety, comply with the law, and

use NTTA property for only NTTA purposes. Contractor is expected to be aware of these requirements and must promptly report to the NTTA any conduct by an employee that the Contractor reasonably believes may be in violation of the Policy.

<https://www.ntta.org/whoweare/policies/Pages/default.aspx>

ATTACHMENT A

**CONFIDENTIALITY
AND NON-DISCLOSURE STATEMENT**

Respondent agrees that it will not disclose to any unauthorized person, association, firm, corporation or other party any proprietary or confidential information relating to the Authority. The Confidential Information includes all information directly or indirectly furnished, obtained or acquired directly, indirectly or by inference in the course of providing services to the NTTA, or other information that the receiving Party should reasonably know is of a confidential nature. Confidential Information includes, but is not limited to, security operations, equipment, measures, plans, policies, procedures or devices, intellectual property, ideas, inventions, processes, know-how, techniques, business methods, financial data and information, accounting and control procedures, information or data concerning the parties' products, services, policies, violation enforcement system, patrons, Toll-Tag customers, personnel and any other aspect of its operation and the like, whether such information is tangible or intangible, or transferred, maintained or obtained orally, visually, electronically or by any other means.

Respondent confirms that such information constitutes the exclusive property of the Authority. All confidential and proprietary information will be held in strict confidence. Respondent will protect the confidentiality of all related records, data and information, with the same degree of care given toward the protection of Respondent's confidential information. Respondent agrees to be responsible for the negligent or willful release or unauthorized use of the Confidential Information by its employees, agents, representatives, affiliates, subcontractors, contractors, or any other third party which will gain access to Confidential Information via Respondent, its employees, agents, representatives, affiliates, subcontractors or contractors that results in any damages to the NTTA, including loss to persons, property and revenues.

Respondent agrees that this Non-disclosure and Confidentiality Agreement is important and material to the RFQ process and subsequent contract award, and disclosure of said confidential and proprietary information would significantly affect the successful conduct of the business of the Authority, as well as its reputation and goodwill. Any breach of the terms of this Agreement is a material breach, from which Respondent may be enjoined and for which the Respondent also must pay to the NTTA all damages which arise from said breach. Respondent understands and acknowledges that its responsibilities under this Agreement will continue in full force and effect after the award of the contract for an independent performance review services and after termination of Respondents contractual relationship with the Authority ends for any reason.

IN WITNESS THEREOF, executed this _____ day of _____, 2013.

RESPONDENT:

(Signature)
Name/Title: _____

Company Name: _____

ATTACHMENT B

CONFLICT OF INTEREST QUESTIONNAIRE		FORM CIQ
For vendor or other person doing business with local governmental entity		OFFICE USE ONLY
<p>This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.</p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.</p> <p>A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.</p>		Date Received
1	Name of person who has a business relationship with local governmental entity.	
2	<p><input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire.</p> <p>(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)</p>	
3	<p>Name of local government officer with whom filer has employment or business relationship.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Name of Officer</p> <p>This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.</p> <p>A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>D. Describe each employment or business relationship with the local government officer named in this section.</p>	
4	<p style="text-align: center;">_____ Signature of person doing business with the governmental entity</p> <p style="text-align: right;">_____ Date</p>	

Adopted 06/29/2007

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

OFFICE USE ONLY

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of the conflict that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.001(1-a), Local Government Code. An offense under this section is a Class C misdemeanor.

This should include the vendor name even if a conflict does not exist, by both vendors doing business with the NTTA, and seeking to do business with the NTTA.

1 Name of person who has a business relationship with local governmental entity.

Name of Vendor or person seeking business with NTTA

2 Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 Name of local government officer with whom filer has employment or business relationship.

Insert conflict here, or state NA

Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

Yes No

Complete A-C if a conflict exists

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

Yes No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

Yes No

D. Describe each employment or business relationship with the local government officer named in this section.

Identify relationship if applicable

4 Signature Required

Signature of person doing business with the governmental entity

Date

Date

Adopted 06/29/2007

[] I have a familial relationship with a board member, employee, consultant or agent of the Authority, one of its member counties or another toll agency which is as follows:

[] I have other interest in the Authority which is as follows:

By signature of this Agreement, Contractor acknowledges to the Authority that Contractor has made full disclosure of any existing conflicts of interest and that Contractor will disclose any potential conflicts of interest, including personal financial or real property interests, direct or indirect, which develop after signature of the contract and prior to completion of the contract.

Signature

Name

Title

SWORN TO AND SUBSCRIBED BEFORE ME by the said _____
this

_____ day of _____, 2013, to certify which witness my hand and seal of
office.

Notary Public in and for

My Commission Expires: _____

Please Print Name of Notary _____

NTTA SUPPLEMENT TO CONFLICT OF INTEREST QUESTIONNAIRE

SECTION I: INSTRUCTIONS

Please complete and submit the NTTA Supplement to Conflict of Interest Questionnaire below. This requirement also applies to any proposed sub consultant(s). Failure to comply with this requirement may cause your proposal to be declared nonresponsive.

In order to answer the questions contained in this form, please review NTTA's Conflict of Interest provisions, the list of the NTTA's Board of Directors and member counties. Any questions regarding the information required to be disclosed in this form should be directed to Kimberly Tolbert, Assistant Executive Director of Administration.

Name of Firm: _____

Name of Preparer: _____

Date: _____

SECTION II: QUESTIONS

1. During the last twenty-four (24) months, has your firm provided a source of income to a director, officer or employee of the NTTA, one of its member counties or other toll agency, or have any director, officer or employee, of the NTTA held any financial interest in your firm (including real property)?

YES **NO**

If "yes," please list the names of the person(s) and the nature of the financial interest:

Name:

Nature of Financial Interest:

2. Have you or any members of your firm served as a director, officer or employee of the NTTA within the last twelve (12) months?

YES NO

If “yes,” please list name, position, and dates of service:

Name:

Position:

Dates of Service:

3. Are you or any of the owners, partners or officers of your firm or any employee who you anticipate working on this contract related by blood or marriage/domestic partnership to a director, officer or employee of the NTTA?

YES NO

If “yes,” please list name and the nature of the relationship:

Name:

Relationship:

4. Does any director, officer or employee of the NTTA hold a position at your firm as a director, officer, partner, trustee, employee, or any position of management?

YES NO

If “yes,” please list name and the nature of the relationship:

Name:

Relationship:

SECTION III: VALIDATION STATEMENT

This Validation Statement must be completed and signed by at least one General Partner, Owner, Principal, or Officer authorized to legally commit the proposer.

DECLARATION

I, (printed full name) _____, hereby declare that I am the (position or title) _____ of (firm name) _____, and that I am duly authorized to execute this Validation Statement on behalf of this entity. I hereby state that this NTTA Conflict of Interest Form dated _____ is correct and current as submitted. I acknowledge that any false, deceptive, or fraudulent statements on this Validation Statement will result in rejection of my contract proposal.

Signature of Person Certifying for Proposer

Date

(Original signature required)

NOTICE

A material false statement, omission, or fraudulent inducement made in connection with this NTTA Conflict of Interest Form is sufficient cause for rejection of the contract proposal or revocation of a prior contract award.

ATTACHMENT C

BUSINESS DIVERSITY PROGRAM

NORTH TEXAS TOLLWAY AUTHORITY

“DISADVANTAGED, MINORITY, WOMEN-OWNED, AND SMALL BUSINESS ENTERPRISE PROGRAM”

Professional Services, Consulting and Goods/Services Contracts, and Special Provision for Construction and Maintenance related projects

1. General

The North Texas Tollway Authority (the Authority) is committed to providing contracting opportunities for disadvantaged, minority, women-owned, and small business enterprises (D/M/WBE). In this regard, the Authority maintains DBE, M/WBE, and SBE programs in order to facilitate contracting opportunities for these businesses.

The programs are implemented in accordance with the NTTA's Disadvantage, Minority, Women-Owned and Small Business Enterprises Policy (Diversity Policy), originally adopted by the NTTA Board of Directors under Resolution No. 10-19 on January 20, 2010, and any revisions thereafter.

The following document outlines:

- Criteria regarding commercially useful function
- Factors to determine good faith efforts
- Contractor responsibilities
- Monthly reporting and compliance requirements
- Noncompliance enforcement

The Business Diversity Department Contracting and Compliance Manual (CCM) outlines the procedures, provisions and compliance requirements to support and comply with the Authority's Diversity Policy. The CCM is approved and incorporated into the contract by reference for all purposes by the Authority.

The CCM and the Diversity Policy may be obtained online at the NTTA website at <https://www.ntta.org/procurement/busdiv/bestpractices/Pages/default.aspx> or by contacting the Business Diversity Department at (214) 461-2007.

2. Commercially useful function criteria

A commercially useful function (CUF) is when the D/M/WBE is responsible for the performance, management and supervision of a distinct element of work, in accordance with normal industry practice. The criteria utilized to determine a commercially useful function is set forth in the CCM (page 18).

3. Factors to determine good faith efforts

All prime contractors are required to demonstrate a good faith effort toward achieving a D/M/WBE goal. A good faith effort can be demonstrated by actions which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to, either individually or collectively, achieve the goal.

If a prime contractor does not meet the designated goal, it may nevertheless be eligible for award of the contract if it can demonstrate to the NTTA that it has made a good faith effort to meet the goal. The factors that determine if a good faith effort has been met are set forth in the CCM (page 23).

4. Contractor's responsibilities

All responding firms, including D/M/WBE certified firms, must submit documentation regarding all subcontractor utilization and how they will meet or exceed the established goal using certified D/M/WBE firms for this project on the Commitment Agreement Form (Form 4906) provided.

Commitment Agreement Form (Form 4906), good faith effort documentation and supporting information must be submitted to the Business Diversity Department for all contracting opportunities in accordance to the CCM. Form 4906 must be submitted to the Authority with the proposal.

Information for construction and maintenance related projects

For all construction and maintenance related projects, Form 4906 must be submitted to the Authority no later than 5:00 pm on the 14th day after written notification of the conditional award of the contract.

Additional questions and/or clarification can be obtained by contacting the Director of Business Diversity at businessdiversity@ntta.org. Please copy the Procurement Services Department at bidpurchasing@ntta.org on all correspondence. Form 4906 must include a brief description of the type of work to be performed and the dollar value or percentage of utilization of work that will be assigned to the subcontractors including D/M/WBEs and must be signed by both the prime contractor and subcontractor.

All compliance forms may be obtained online at the NTTA website at <https://www.ntta.org/procurement/busdiv/bestpractices/Pages/default.aspx>

5. Monthly reporting and compliance requirements

Prime contractors must submit monthly reports, no later than the 15th of each month, using the Monthly Subcontractor Progress Report (Form 4907) throughout the term of the contract, and submit the Subcontractor Final Report (Form 4908) upon completion of the Contract in accordance with the CCM.

Prime contractors are also required to electronically submit their respective Form 4907 information into the business diversity contract compliance tracking system by the 15th of each month. Prime contractors will have a designated User ID & password to login to the contract compliance tracking system via the following link: <https://pro.prismcompliance.com>

6. Noncompliance enforcement

All participants of the D/M/WBE business process must comply with the requirements set forth in the Diversity Policy and are subject to noncompliance enforcement as set forth in the Non Compliance Enforcement section of the CCM.

**NORTH TEXAS TOLLWAY AUTHORITY
“D/M/WBE GOAL”**

Contract No: RFP 03459-NTT-00-CS-IT

Project: OLCSC Mobile App

The following goal is established for DBE, MBE, and WBE subcontractor participation:

DBE _____% of total contract amount

M/WBE _____% of total contract amount

Total D/M/WBE Goal **Good Faith Effort** **% of total contract amount**

Pursuant to the Authority’s Disadvantaged, Minority, Women-Owned and Small Business Enterprises Policy, and as outlined in the “Business Diversity Department Contractors Compliance Handbook”, SBE utilization will continue to be tracked, reported, and monitored in its procurements. However, SBE participation will be counted independent of D/M/WBE participation goal and tracked separately. Women-owned minority firms certified as WBEs will count towards NTTA’s MBE participation. Minority firms certified as DBEs will count towards NTTA’s DBE participation.

DBE = Disadvantaged Business Enterprise
MBE = Minority Business Enterprise
WBE = Women-Owned Business Enterprise
SBE = Small Business Enterprise

NORTH TEXAS TOLLWAY AUTHORITY
SPECIAL PROVISION
IMPORTANT NOTICE TO CONTRACTORS
“NTTA BUSINESS DIVERSITY PRISM CONTRACT COMPLIANCE
TRACKING SOFTWARE”

1. Introduction

The NTTA PRISM contract compliance software (NTTA PRISM system) is the Authority’s web-based computer system that tracks the monthly subcontractor payment reporting for NTTA contracts.

As outlined in the NTTA Business Diversity Department Contracting and Compliance Manual (CCM), if a contract includes a D/M/WBE subcontracting commitment, the prime contractor will submit a Monthly Subcontractor Progress Report (Form 4907) to the Business Diversity Department (BDD). Form 4907 reflects actual payments made for the specific month indicated. Information provided on Form 4907 is utilized to monitor and track the percentage of work performed by all subcontractors and to confirm whether the contract-specific goal established is fulfilled.

When fully implemented, the NTTA PRISM system is intended to replace the current manual subcontractor payment reporting with a more efficient online reporting process.

2. Contractor’s Obligations

The Contractor will utilize the NTTA PRISM system for monthly subcontractor payment reporting and other reporting compliance as outlined in the CCM. Contractors will have a designated User ID and password to login to the NTTA PRISM system and may access the NTTA PRISM system over the internet 24 hours a day, seven days a week via the following link:

<https://pro.prismcompliance.com>

The NTTA PRISM system is an official record of communications between the Contractor and the NTTA Business Diversity Department. Information provided in the NTTA PRISM system is utilized to monitor and track the percentage of work performed by all subcontractors and to confirm whether the contract-specific goal established is fulfilled.

The Contractor must understand the procedures listed in the Pre-Award and Post-Award Compliance sections of the CCM which can be found at the NTTA website at <https://www.ntta.org/procurement/busdiv/bestpractices/Pages/default.aspx>.

Within 14 days after the Contract is awarded, the Contractor will submit a list containing the name, company, role/title, telephone number, and e-mail address of individuals who will attend the training sessions for the use of the NTTA PRISM system. Training will be provided by the Authority at no cost. All the NTTA PRISM system users must complete the training prior to receiving access to the NTTA PRISM system; no exceptions will be granted. The Contractor will agree to comply with all terms and conditions associated with its use of the NTTA PRISM system. At any time during the contract, the Contractor may request for additional NTTA PRISM system training as a refresher course for existing NTTA PRISM system users or to add new individuals who will require use of the NTTA PRISM system.

3. Equipment

The Contractor will obtain the necessary computer equipment, at its own expense, to access the NTTA PRISM system. Please refer to the General Notes in the plan set regarding the list of computer equipment and software required for this project to meet the requirements set forth in the in the Special Provision 0.19, "Importance Notice to Contractors – NTTA Enterprise Project Delivery System", if applicable. This same list of computer equipment and software required will suffice for the NTTA PRISM system.

The Contractor will be able to access the NTTA PRISM system via the internet from any location 24 hours a day using their designated user id and password via the following link: <https://pro.prismcompliance.com>. In the event that the NTTA PRISM system becomes inoperable or unavailable to the Contractor, the Contractor will contact the Business Diversity Department to have the software repaired and for directions of processing required documentation until the NTTA PRISM system is operational. Once the NTTA PRISM system is in operation again, the Contractor will upload the required documentation through the NTTA PRISM system.

4. Documentation

The Contractor must understand the procedures listed in the Pre-Award and Post-Award Compliance sections of the CCM and submit all required documentation.

5. Noncompliance

The Contractor must understand and be required to comply with the procedures listed in the Pre-Award and Post-Award Compliance sections of the CCM which can be found at the NTTA at <https://www.ntta.org/procurement/busdiv/bestpractices/Pages/default.aspx>.

6. Measurement and Payment

The work performed, materials furnished, equipment, labor, tools, and incidentals required for compliance with this special provision will not be measured or paid for directly, but will be subsidiary to the various bid Items.

ATTACHMENT C

BUSINESS DIVERSITY REPORTING FORMS

GOOD FAITH EFFORT FORM

FORM 4906

FORM 4907

FORM 4908



GOOD FAITH EFFORT FORM

If you have failed to secure D/M/WBE participation and you have subcontracting and/or supplier opportunities or if you're D/M/WBE participation is less than the NTTA's project goal, you **must** complete this form.

Prime Company Name (please print):	NTTA Contract Number:
	NTTA Contract Goal: _____ %
Check applicable response to describe prime:	D/M/WBE:
	(yes ___) Certifying Entity: _____ (no ___)

If the bidder's method of compliance with the D/M/WBE goal is based upon demonstration of a "good faith effort", the bidder will have the burden of correctly and accurately preparing and submitting the documentation required by the NTTA. Compliance with items 1 through 6 as it appears on the Good Faith Effort Form, in its entirety shall satisfy the good faith effort requirement upon verification from Business Diversity staff and confirmation of no counterfeit information, intentional and/or knowing misrepresentation of facts or intentional discrimination by the contractor.

Failure to complete this form, in its entirety with supporting documentation, and received by the Business Diversity Department, will result in the bid being considered non-responsive to bid specifications. Please list each and every subcontracting and/or supplier opportunity for the completion of this project, regardless of whether it is to be provided by a D/M/WBE or non-D/M/W/SBE. (DO NOT LIST NAMES OF FIRMS).

- Please list each and every (subcontracting and/or supplier opportunity) for the completion of this project, regardless of whether it is to be provided by a D/M/WBE or non D/M/WBE (DO NOT LIST NAMES OF FIRMS). **List opportunities only.**
(Use additional sheets, if necessary)

List of Subcontracting Opportunities:	List of Supplier Opportunities:

2. Did you obtain a current (**not more than 60 days old from the initial response to the NTTA's solicitation due date**) list of D/M/WBE subcontracts and/or suppliers from the NTTA's Business Diversity Department?

(yes ___) (no ___)

D/M/WBE listing request date to the NTTA's Business Diversity Department: _____ / _____ /20____

3. Did you solicit bids from D/M/WBE firms, within the subcontracting and/or supplier areas previously listed by mail?

(yes ___) (no ___)

Attach the D/M/WBE mail listing including a dated copy of the letter mailed, or email correspondence showing proof of solicitation to D/M/WBE firms. **If you did not fulfill, please write the following statement: "I did not comply"**

-
4. Did you solicit bids from D/M/WBE firms within the subcontracting and/or supplier areas previously listed by telephone?

(yes ___) (no ___)

Attach D/M/WBE contact list to include: D/M/WBE firm, person contacted, telephone number, date and time of contact. **If you did not fulfill, please write the following statement: "I did not comply"**

NOTE: A facsimile may be used to comply with either 3 or 4 but may **not** be used for both. If a facsimile is used, attach the fax confirmation, which is to provide: D/M/WBE name, date, time, fax number and documentation faxed.

NOTE: If the list of D/M/WBE firms for a particular subcontracting/supplier opportunity is ten (10) or less, the contractor must contact the entire list to be in compliance with item 3 and 4. If the list of D/M/WBE firms for a particular subcontracting/supplier opportunity is ten (10) or more, the contractor must contact at least two-thirds (2/3) of the list within such area of opportunity, but not less than ten to be in compliance with items 3 and 4.

5. Did you provide plans and specifications to potential D/M/WBE firms or information regarding the location of plans and specifications in order to assist the D/M/WBE firms?

(yes ___) (no ___)

6. Submit documentation if D/M/WBE firms were rejected. The documentation submitted should be in the form of an affidavit, include a detailed explanation of why the D/M/WBE firms were rejected and any supporting documentation the contractor wishes to be considered by the NTTA. In the event of an actual dispute concerning quotes, the contractor will provide for confidential access to and inspection of any relevant documentation by NTTA Legal personnel. **(Please use additional sheets, if necessary and attach)**

Company Name	Telephone	Contact Person	Scope of Work	Reason for Rejection

ADDITIONAL INFORMATION:

Please provide additional information you feel will further explain your good and honest efforts to obtain D/M/WBE participation on this project.

The bidder further agrees to provide, directly to the NTTA upon request, complete and accurate information regarding actual work performed on this contract, the payment thereof and any proposed changes to the original arrangements submitted with this bid. The bidder also agrees to allow an audit and/or examination of any books, records and files held by their company that will substantiate the actual work performed on this contract, by an authorized NTTA employee.

Any intentional and/or knowing misrepresentation of facts will be grounds for terminating the contract or debarment from NTTA work for a period of not less than three (3) years and for initiating action under laws concerning false statements. Any breach of contract may result in a determination of an irresponsible offeror and barred from participating in NTTA work for a period of time not less than one (1) year.

The undersigned certifies that the information provided and the listed was/were contacted in good faith. It is understood that any D/M/WBE firms listed on the Good Faith Effort Form will be contacted and the reasons for not using them will be verified by the NTTA's Business Diversity Department.

Authorized Signature:	Printed Signature:
Title:	Contact Name and Title (if different):
Company Name:	Phone Number:
Street Address:	Email Address:
City/County/State and Zip Code	Date: _____ , _____ 20 ____
Business Diversity Director Authorized Signature:	Date: _____ , _____ 20 ____

The NTTA maintains the information collected through this form. With few exceptions, upon request you may be informed of the information that is collected about you. Under Sections 552.021 and 552.023 of the Texas Government Code, you are permitted to receive and review the information. Under Section 559.004 of the Texas Government Code, you are also permitted to have the NTTA correct information about you that it is incorrect.

To ensure prompt and efficient handling of your project file, we are requesting that all commitments be presented to the NTTA's stakeholder using this form.



**NORTH TEXAS TOLLWAY AUTHORITY
MONTHLY SUBCONTRACTOR PROGRESS REPORT**

Contract No.:	number	County:	Name
SA/WA/ETC#:	number	Reporting Period (M/D/Yr to M/D/Yr)	date to date
Contractor:	Name	Original Contract Amount:	\$ -
D/M/WBE Goal:	0.00%	Current Contract Amount:	\$ -
D/M/WBE Goal Attained to Date:	0.0%	D/M/WBE Goal Dollars:	\$ -
		Current Year to date D/M/WBE Dollars paid (Beginning January 1st - December 31st)	\$ -

Name of Subcontractor/Supplier	Type of Work/Service performed	Amount Paid This Period to Subcontractor	Amount Paid To Date to Subcontractor
D/M/WBE Certified Firms:			
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
D/M/WBE Firm Totals:		\$ -	\$ -
SBE Firms:			
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
SBE Firm Totals:		\$ -	\$ -
Non-Minority Firms:			
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
Non-Minority Firm Totals:		\$ -	\$ -

Include payments to all certified DBEs, WBEs, MBEs, SBE's and all Non-Minority firms during the period noted above.

If using a non-minority hauling firm that leases from D/M/WBE truck owner-operators, payments made to each owner-operator must be reported.

Any changes to the original commitments previously approved by the department must be reported to the NTTA's stakeholder and the Business Diversity Department.

For projects with assigned D/M/WBE Goals, submission of this report for periods of negative D/M/WBE activity is required. This report is required until all subcontracting or material supply activity is completed. ***This report must be submitted to the NTTA or Construction Manager each month with your monthly invoices.***

I hereby certify that the above is a true and correct statement of the amounts paid to all the firms listed above.

Signature: _____
Authorized Company Official
Date

The NTTA maintains the information collected through this form. With few exceptions, upon request you may be informed of the information that is collected about you. Under Sections 552.021 and 552.023 of the Texas Government Code, you are permitted to receive and review the information. Under Section 559.004 of the Texas Government Code, you are also permitted to have the NTTA correct information about you that it is incorrect.



**NORTH TEXAS TOLLWAY AUTHORITY
SUBCONTRACTOR FINAL REPORT**

Contract No.:	number	Original Contract Amount:	\$ -
SA/WA/ETC#:	number	Final Contract Amount:	\$ -
Contractor:	Name	D/M/WBE Goal Amount:	\$ -
D/M/WBE Goal:	0.00%	Goal Amount Attained to Date:	\$ -

Name of Subcontractor/Supplier	SBE, DBE, MBE, WBE, Non-Minority	Final Amount Paid To Subcontractor to Date
D/M/WBE Certified Firms:		
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
	Total:	\$ -
SBE Firms:		
		\$ -
		\$ -
		\$ -
		\$ -
	Total:	\$ -
Non-Minority Firms:		
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
	Total:	\$ -

* Include payments to all **NON-MINORITY** and certified DBEs, WBEs, MBEs and SBEs.
 This is to certify that **0.0%** of the work was completed by D/M/WBE firms, as stated above.
 IF THE GOAL WAS NOT ATTAINED, THEN ATTACH DOCUMENTATION THAT EXPLAINS THE REASONING.

Signature of General Contractor: _____ Date: _____

AFFIX NOTARY STAMP/SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20____, to certify which, witness my hand and seal of office.

Signature of Notary Public: _____ Printed Name of Notary Public: _____

The NTTA maintains the information collected through this form. With few exceptions, upon request you may be informed of the information that is collected about you. Under Sections 552.021 and 552.023 of the Texas Government Code, you are permitted to receive and review the information. Under Section 559.004 of the Texas Government Code, you are also permitted to have the NTTA correct information about you that it is incorrect.

Attachment D

SCOPE OF SERVICES

03565-NTT-00-CS-IT
Telecommunications and Dark Fiber Management Program

The North Texas Tollway Authority (“NTTA”) is seeking a firm experienced in managing and negotiating commercial agreements for the use of fiber optics cable, as well as telecommunications/cell tower installation and operation. The NTTA desires to make some of its dark fiber optics cable assets (144 strands located along existing roadways) available for long term leasing. Additionally, the NTTA desires to make real estate resources available for cell tower installation and operation (a map of the NTTA System is attached).

Phase I

The qualified consultant will develop a comprehensive road map and master project plan for the full life cycle of this management program. This effort will result in the development of all necessary processes and documents for the planning and execution of each of the two proposed activities. The selected consultant will be required to produce deliverables that will enable the NTTA to fully implement fiber leasing and cell tower installations through step-by-step instructions and detailed guidelines on how the processes are to be complete.

- A template set of terms and conditions for the use of dark fiber and a template set of terms and conditions for cell tower installation and operation, based on terms and conditions commonly found in such agreements
- Advise the NTTA on common rates used for dark fiber assets and cell tower installation and leasing in the North Texas/Texas area
- Advise on cost effective ways to manage assets of the NTTA
- Identification of business partner target market

Phase II

Phase II consists of implementing or participating in the implementation of the proposed road map and project plan. The NTTA will consider alternatives for fully-outsourced programs and fully-insourced programs. These deliverables should include, but are not limited to, the following:

- Resource plan to outline internal activities and processes needed to support the overall program
- Inventory of all fiber-optic assets and cell tower locations prioritized by location value
- Marketing and sales plan, to include all materials needed to communicate to target market along with contact information
- Maintenance and implementation plan to support the long term relationships
- Contract development, to include interaction with NTTA counsel and market, and development of terms and conditions
- Maintain documentation of current maps of network, asset inventory, assignment inventory, fiber counts, associated equipment information
- Monthly Reporting
- Fiber monitoring and repair process

Responses to this proposal will include:

- Project approach
 - Primary tools, equipment, software and hardware you use
 - Identify how you would make your approach effective and efficient
 - Describe your recommended project management approach for coordination and communication
- Assumptions
 - Please note any assumptions utilized in preparing your response
- NTTA resources required and percentage of usage of those resources
- Cost (see costing worksheet, ATTACHMENT E-Phase I and Phase II pricing)
- Schedule: NTTA would like to see how long it will take to complete the process. Our preliminary scheduling strawman suggests that Phase 1 deliverables would be completed within 60 days of contract award, with Phase 2 commencing immediately upon acceptance of the Phase 1 deliverables, with first contracts/leases executed within 60 days.

ATTACHMENT E

COST WORKSHEET

Phase I	Proposed Cost
<p>This cost line should include the cost of the comprehensive road map and master project plan, per the scope, including related deliverables. Phase I cost should be provided at a Lump Sum price.</p>	<p>\$ _____ Lump Sum</p>

Phase II-Fully Outsourced Option	Proposed Cost
<p>This cost line should include the actual implementation of the project plan and roadmap from Phase I. The fully outsourced approach assumes the proposer will handle all pieces of the project from implementation, to securing lease contracts, lease contract maintenance, marketing, etc.</p>	<p>(Please provide your full cost structure for a fully outsourced solution-Must include an annual Not to Exceed Amount)</p>

Phase II-Fully Insourced Option	Proposed Cost
<p>This cost would assume NTTA will be responsible for the implementation and leg work associated with the project plan. The Proposer would serve as a consultant in Phase II under the Insourced Option.</p>	<p>(Please provide your full cost structure for a fully insourced solution-must include an annual Not to Exceed Amount)</p>

Other	Proposed Costs

ATTACHMENT F

INSURANCE REQUIREMENTS

**NORTH TEXAS TOLLWAY AUTHORITY
Special Provision Addressing
Insurance Requirements**

Contract No.: 03565-NTT-00-CS-SI

Project: Telecommunications and Dark Fiber Management Program

Laws to be Observed. The Consultant shall comply with all federal, state, and local laws, ordinances, and regulations applicable to the performance of the Services. **THE CONSULTANT SHALL INDEMNIFY AND HOLD HARMLESS THE AUTHORITY AND ITS REPRESENTATIVES AGAINST ANY CLAIM ARISING FROM VIOLATION BY THE CONSULTANT OF ANY LAW, ORDINANCE, OR REGULATION APPLICABLE TO THE SERVICES.** The Agreement is between the Authority and the Consultant only. Except with respect to claims arising from the Consultant's indemnity obligations owed to the Authority's directors, employees, and consultants, no person or entity may claim third-party beneficiary status under the Agreement or any of its provisions, nor may any non-party sue for personal injuries or property damage under the Agreement.

Insurance. The Consultant shall not commence performing the Services under the Agreement until it has furnished the Authority with satisfactory proof that the Consultant has obtained insurance of such character and in such amounts as set forth below. The Consultant shall submit complete policies or certificates evidencing the policy coverages and stipulations. The certificate submittals shall be provided on forms adopted by the Association for Cooperative Research and Development (ACORD).

The Consultant shall purchase and maintain in full force and effect, until completion of the Services and the expiration of all applicable Texas statutes of limitations, with respect to claims that could arise out of the Services or the Consultant's performance of the Services, such insurance as will cover the obligations and liabilities of the Consultant and its agents, employees, and subconsultants which may arise from the Services or the Consultant's performance of the Services under the Agreement. All such insurance shall be written with companies having an A.M. Best Financial Strength Rating of **A-** or better, and be in a Financial Size Category of **X** or greater. Any professional liability policy written on a claims-made basis must include coverage for an extended reporting period of not less than five years from the termination of the coverage period under the policy. Consultant hereby agrees that the Authority has the right to review the insurance providers, and that all companies must be acceptable to the Authority.

Each of the required policies listed below (1), (2), and (3) shall be endorsed to reflect a “Waiver of Subrogation” in favor of the Authority.

Until the expiration of all applicable Texas statutes of limitations, the Consultant shall secure and maintain, in the Consultant’s own name, the following:

1. Workers’ Compensation Insurance in compliance with the laws of the State of Texas and Employer’s Liability Insurance with minimum limits of:

\$ 500,000 Each Accident
\$ 500,000 Disease Policy Limit
\$ 500,000 Disease Each Employee

2. Commercial General Liability Insurance covering the Consultant with minimum limits of:

2004 ISO, CGL or Equivalent Limits for Bodily Injury and/or Property Damage:

\$500,000 General Aggregate
\$500,000 Products and Completed Operations Aggregate
\$500,000 Personal and Advertising Injury
\$500,000 Each Occurrence
\$ 50,000 Fire Damage

3. Business Auto Liability Insurance with minimum limits of **\$500,000.00** Combined Single Limit for Bodily Injury and/or Property Damage, including Owned, Hired and Non-Ownership Liability Coverage. This policy shall not contain any limitation with respect to a radius of operation for any vehicle covered, and shall not exclude from the coverage of the policy any vehicle to be used in connection with performance of the Services.

4. Professional Liability Insurance in the amounts normally carried for its own protection in the practice of providing services, but in no event less than **\$1,000,000.00** per claim and **\$1,000,000.00** aggregate.

5. The **Authority** shall be included as additional insured by endorsement to all policies required under the Agreement, other than Workers’ Compensation and Professional Liability Insurance policies.

6. Insurance for Subconsultants.

(1) The Consultant shall secure and maintain, until the expiration of all applicable Texas statutes of limitations with respect to claims that could arise out of a subconsultant’s performance of the

Services, certificates of insurance from all subconsultants, evidencing the foregoing types and amounts of insurance coverages, with respect to the Services to be performed by the subconsultant.

(2) Insurance certificates of subconsultants and sub-subconsultants will be maintained by the Consultant for the duration of the Agreement.

Required Addendum. The insurance carrier shall include in each of the insurance policies required under the Agreement the following statement:

“This policy shall not be canceled or materially changed nor non-renewed during the period of coverage without at least thirty (30) days’ written prior notice to the North Texas Tollway Authority, 5900 West Plano Parkway, Suite 100, Plano, Texas 75093, Attention: Insurance Program Administrator.”

Payment of Deductibles. The Consultant shall be responsible for any deductible stated in any policy required under the Agreement.

Duration of Coverage. The Consultant shall carry the insurance specified above until all of the Services required to be performed under the terms of the Agreement are satisfactorily completed, as evidenced by the formal acceptance thereof and final payment of all amounts owed to the Consultant by the Authority, or provide, prior to the end of coverage, a new certificate of insurance. If, for any reason, the required insurance coverage is not kept in force, the Consultant shall stop all work until it provides acceptable documentation to the Authority. The Consultant shall notify the Authority, in writing, by certified mail or hand delivery of any material change in the insurance coverage of the Consultant or any subconsultant or sub-subconsultant within ten (10) days of such change.

Certification by the Insurer. On all policies, the insurer shall certify that the aggregate amount shown on insurance limits is in full force and has not been diminished.

No Special Payments. No special payments shall be made for any insurance that the Consultant may be required to carry, but all costs thereof shall be included in the price bid for the various items included in the proposal. Bidders shall determine all the kinds and costs of insurance that may be required before submitting their bids and shall submit acceptable evidence of same to the Authority.

No Waiver by the Authority. Neither the approval by the Authority of any insurance supplied by the Consultant nor the failure to disapprove that insurance shall relieve the Consultant from full responsibility for any liability as set forth herein

Waiver by the Consultant. The Consultant hereby waives any and every claim which arises or may arise in its favor against the Authority, the Engineer, the Construction Manager, the Section Engineer, and the Consulting Engineers and their respective owners, directors, officers, employees, consultants, contractors, and agents pursuant to the Agreement which is covered, in whole or in part, by insurance provided or to be provided pursuant to the terms hereof. Such waiver shall be in addition to, and not limitation of, any other waiver or release contained in the Agreement. Inasmuch as such waiver shall preclude the assignment of any aforesaid claim by way of subrogation or otherwise to an insurance company (or any other person), the Consultant hereby agrees immediately to give to each insurance company which has issued policies of insurance pursuant hereto written notice of the terms of such waiver and to cause such insurance policies to be properly endorsed, if necessary, to prevent the invalidation of such insurance coverages by reason of such waiver.

ATTACHMENT G

SAMPLE CONTRACT

**CONSULTING SERVICES AGREEMENT BETWEEN
NORTH TEXAS TOLLWAY AUTHORITY
AND
INSERT VENDOR NAME, LLC**

Contract No.: 03565-NTT-00-CS-IT

THIS CONSULTING SERVICES AGREEMENT ("Agreement") is made and entered into as of **August 1, 2012** ("Effective Date"), by and between the **North Texas Tollway Authority**, a regional tollway authority and a political subdivision of the State of Texas, whose address is 5900 West Plano Parkway, Suite 100, Plano, Texas 75093 ("NTTA"), and **Insert Vendor Name, LLC**, a XXX Limited Liability Company, whose address is XXXXXXXXXXXX,XXX,XXX ("Consultant").

WITNESSETH

WHEREAS, the NTTA is a regional tollway authority governed by Chapter 366 of the Texas Transportation Code ("Regional Tollway Authority Act"), and authorized to enter into agreements necessary or incidental to its duties and powers; and

WHEREAS, the NTTA wishes to obtain the necessary resources to develop and facilitate INSERT SERVICE DESCRIPTION; and

WHEREAS, the NTTA's procurement policy provides that the NTTA may contract for consulting services if the Executive Director reasonably determines that the NTTA cannot adequately perform the services with its own personnel, and the Executive Director has made such a determination; and

WHEREAS, the NTTA must base its selection of consultants on their demonstrated competence, knowledge and qualifications, and on the reasonableness of the proposed fee for the services; and

WHEREAS, the services to be provided by the Consultant under this Agreement are described in the NTTA's Request for Proposal for Contract xxxxx ("RFP"), as well as the Consultant's Response, which was prepared by the Consultant and submitted to the NTTA in response to the RFP ("Response"); and

WHEREAS, the Consultant's personnel are highly trained, qualified, and experienced in performing the Scope of Services (as defined below) desired by the NTTA, the Consultant has the demonstrated competence, knowledge, and requisite qualifications to provide the desired services, and has agreed to do so for a reasonable fee as set forth below and upon the terms and conditions provided in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of payments hereinafter stipulated, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

7. DUTIES OF THE CONSULTANT

- (1) The Consultant covenants and agrees to provide those services described in this Agreement, including those detailed in the Scope of Services, attached hereto as Exhibit A and incorporated herein for all purposes (all such services being collectively referred to hereinafter as the "Services").
- (2) The Consultant covenants and agrees that the Services will be of the highest quality, complete in all respects, comply fully with the terms of this Agreement, and be subject to the approval of the NTTA.

8. TIME OF PERFORMANCE; SUSPENSION OF WORK

- (1) The Consultant agrees to begin the performance of the Services no later than ten (10) business days after the Effective Date.
- (2) Notwithstanding the foregoing, the NTTA may elect to suspend the work of the Consultant hereunder, but not terminate this Agreement, by providing the Consultant with thirty (30) days' prior written notice to that effect. Thereafter, the work may be reinstated and resumed in full force and effect upon receipt from the NTTA of thirty (30) days' prior written notice requesting same. The Consultant will not be entitled to any damages or other compensation of any form in the event that the NTTA exercises its right to suspend the work; provided, however, that the completion period will be extended for a period of time determined by the NTTA at its discretion to allow for said suspension of work.
- (3) The Consultant agrees that no claims for damages or for other compensation will be made by the Consultant for any delays or hindrances occurring during the progress of any portion of the Services. Such delays or hindrances, if any, will be provided for by an extension of time for such reasonable periods as the NTTA may decide.

9. COMPENSATION

- (1) The Consultant agrees to accept the consideration described in Exhibit B, attached hereto and made a part of this Agreement, as full and sufficient compensation for the satisfactory performance of the Services and its other obligations under this Agreement. Payments by the NTTA will be inclusive of all federal, state, and local taxes, if any, and will constitute full payment for the Services and all resources required to deliver the Services, including materials, training, equipment used, travel (except as hereafter provided), overhead, and expenses.
- (2) If the NTTA must materially change the contractual scope of the Services or materially revise features of the Services from those shown and described in Exhibit A, then the fees to be paid to the Consultant will be subject to adjustment upward or downward as specified by mutual written agreement signed by the NTTA and the Consultant prior to such change.
- (3) If after paying for the Services or any other products or deliverables, the NTTA determines that the Services, products or deliverables do not satisfy the requirements of

this Agreement, the NTTA may reject them and the Consultant will return the compensation received therefore. No payment by the NTTA will relieve the Consultant of its obligation to deliver timely the Services in accordance with the terms of this Agreement. In addition to all other available rights and remedies, the NTTA may set off amounts owed by the Consultant under this Agreement against amounts owed by the NTTA to the Consultant.

- (4) The Consultant will provide an invoice within thirty (30) days of the end of the month being billed, with appropriate and applicable attachments as required. The NTTA will review and approve each statement in a timely manner and compensate the Consultant for all compliant and unquestioned amounts within thirty (30) business days of the statement's receipt. All travel expenses must comply with and be submitted in conformance with the NTTA's Travel Authorization and Expense Reimbursement Procedure. The NTTA will have the right to withhold all or part of any payments to the Consultant to offset any payment or reimbursement made to the Consultant for ineligible expenditures, use or sales taxes assessed for which the NTTA is exempt, undocumented units of service billed, and any profit made by the Consultant not provided for herein on the Services performed hereunder.
- (5) Notwithstanding anything to the contrary otherwise contained or implied in this Agreement, all compensation billed to and payable by the NTTA hereunder will be subject to the rate discounts and other benefits consistent with the most substantial discounts and benefits that the Consultant provides to other comparable clients for the provision of services similar to those required under this Agreement (an arrangement referred to herein as a "most favored client" discount). The Consultant represents and warrants, as of the Effective Date and throughout the Term (as hereinafter defined), that it has and will have no contract or arrangement with any comparable client for the provision of services similar to those required under this Agreement that provides such client with fees, rates, or terms that are more favorable than those afforded the NTTA under this Agreement. The Consultant will make available to the NTTA for review, copying and auditing throughout the Term and for three (3) years after the expiration thereof all such books and records as may be necessary for the NTTA or its representatives to determine compliance with this provision.
- (6) The Consultant acknowledges and agrees that no representation or assurance has been made by or on behalf of the NTTA to the Consultant as to the total compensation to be paid to the Consultant under this Agreement. Further, the Consultant is providing the Services on a nonexclusive basis, and the NTTA, at its option, may elect to have any of the Services performed by other consultants or by the NTTA's staff.

10. INSURANCE

- (1) Prior to beginning its performance of the Services, the Consultant will, at the Consultant's own expense, obtain insurance coverage in the amounts specified in Attachment E, Insurance Requirements, to the RFQ which is excerpted and attached hereto as Exhibit C and incorporated into this Agreement for all purposes. The Consultant hereby agrees that it will maintain any and all required insurance in full force and effect during the Term.
- (2) The Consultant hereby agrees that all policies will be written through companies licensed or approved to transact that class of insurance in the State of Texas, rated with respect to the companies providing the insurance by A.M. Best Co. as "A-" and "X," or better. Except for professional liability insurance, occurrence-based policies are required. Any

professional liability policy written on a claims-made basis must include coverage for an extended reporting period of not less than five years from the termination of the coverage period under the policy. The NTTA has the right to review the insurance providers, and all providers must be acceptable to the NTTA.

- (3) Prior to beginning its performance of the Services, the Consultant will furnish certificates of insurance on the Association for Cooperative Operations Research and Development Form 25 (i.e., ACORD Form 25), acceptable to the NTTA and evidencing compliance with the requirements of this Section 4. The certificates must indicate the name of insured, the name of insurance company, the name of the agency/agent, the policy number, the term of coverage, and the limits of coverage. Additionally, all insurance furnished for Commercial General Liability and Business Automobile must name the NTTA as an additional insured. On all policies and certificates, the insurer must certify that the aggregate amount shown on insurance limits is in full force and has not been diminished. The insurance carrier must include in each of the insurance policies required under Exhibit C the following statement: "This policy will not be canceled or materially changed during the period of coverage without at least thirty (30) days' prior written notice addressed to the North Texas Tollway Authority, P.O. Box 260729, Plano, Texas 75026, Attention: Insurance and Claims Coordinator".
- (4) If during the Term there is an adverse change in the Consultant's financial condition or if the NTTA reasonably determines that such an adverse change is threatened, the Consultant will procure such additional errors and omissions or similar professional liability insurance as the NTTA reasonably requires and is commercially available.

11. TERM; TERMINATION

- (1) The term of this Agreement will start on the Effective Date and will remain in effect for three (3) years, until August 1, 2015; this Agreement may be extended at the sole discretion of the NTTA for two (2) additional one (1) year terms. The term of this Agreement, as subsequently extended or earlier terminated in accordance with the provisions of this Section 5, is defined as the "Term".
- (2) In addition to any other remedy set forth in this Agreement or otherwise available at law or in equity, the NTTA may terminate this Agreement by written notice to the Consultant at any time, without prejudice to any other legal rights to which the NTTA may be entitled, upon the occurrence of any one or more of the following:
 - a) the NTTA's determination, in its sole judgment, that the Consultant's performance under this Agreement is unsatisfactory; or
 - b) the Consultant's default in the performance of any of the provisions of this Agreement; or
 - c) any representations or warranties made by the Consultant to the NTTA prove to be untrue or inaccurate in any material respect; or
 - d) the NTTA's determination, in its sole judgment, that termination is in the NTTA's best interest.
- (3) If the NTTA, in its sole judgment, determines that the Consultant's performance is unsatisfactory, the Consultant is in default in the performance of this Agreement, or the Consultant made untrue or inaccurate representations or warranties in any material respect, then the NTTA may immediately terminate this Agreement and will have a right to set off or otherwise recover any damages incurred by reason of the Consultant's

breach hereof. The NTTA's rights and options to terminate this Agreement will be in addition to, and not in lieu of, any and all rights, actions, options, and privileges otherwise available to the NTTA as a consequence of said default, whether arising under law or equity pursuant to this Agreement, or otherwise. During the pendency of a default by the Consultant hereunder, the NTTA may withhold payment of any sums that the Consultant claims are owed by the NTTA pending determination of the amount of any setoff or damages available to or suffered by the NTTA due to the Consultant's failure to satisfactorily perform under this Agreement.

- (4) If the NTTA terminates this Agreement pursuant to clause 5(b)(iv) above and not due to the default of the Consultant, upon such termination, the NTTA will enter into a settlement with the Consultant upon an equitable basis as determined by the NTTA, which will fix the value of the work performed by the Consultant prior to the termination. In determining the value of the work performed, the NTTA in all events will compensate the Consultant for all Services performed and expenses reimbursable in accordance with this Agreement to the date of that termination; provided, however, that no consideration will be given to anticipated profit which the Consultant might possibly have made on the uncompleted portion of the Services.
- (5) Termination of this Agreement for any reason will not relieve either party from its obligation to perform up to the effective date of termination or to perform all obligations that survive termination. If before the termination of the Agreement, the NTTA makes payments hereunder attributable to periods after termination, the Consultant will refund those payments promptly to the NTTA. Subject to the provisions of Subparagraphs 5(d) and (e), the Consultant will not be entitled to any compensation after the effective date of termination. Nothing in this subparagraph will limit the rights otherwise available to a party arising from the breach of the provisions hereof.

12. INSPECTION OF BOOKS AND RECORDS

- (1) The NTTA, its employees, agents or any duly authorized representative of the NTTA, will have the right at all reasonable times to inspect and examine the books and records of the Consultant, in whatever form said records may be kept, at the Consultant's office for all lawful purposes, including but not limited to the following:
 - a) examination;
 - b) audit;
 - c) investigation;
 - d) contract administration;
 - e) checking the salary costs and other expenses described and/or contemplated in the Agreement; or
 - f) otherwise confirming compliance with the terms of the Agreement.
- (2) Books and records for the purposes of this section include any and all authorization logs, transaction records, books, documents, and papers that are directly pertinent to the performance of the Services. The Consultant will maintain such records, together with such supporting or underlying documents and materials, for the duration of this Agreement and according to the NTTA's Records Retention Schedules after the completion of this Agreement, including any and all renewals or extensions thereof. The records, together with the supporting or underlying documents and materials, will be made available, upon request, to the NTTA, through its employees, agents,

representatives, contractors or other designees, during normal business hours. The Consultant will provide such access in reasonable comfort and will provide any furnishings, equipment, or other conveniences deemed reasonably necessary to fulfill the purposes described in this section.

13. NOTICES

All notices required to be given hereunder must be in writing and must be sent by certified mail, return receipt requested, hand delivered, or via reputable overnight air courier, addressed as follows:

If to the NTTA by hand delivery or air courier:

North Texas Tollway Authority
Attn: Executive Director
5900 W. Plano Parkway, Suite 100
Plano, Texas 75093

If to the Consultant:

Insert Vendor Name, LLC
Attn: NAME
POSITION
Three World Financial Center
New York, NY 10281

If to the NTTA by United States mail:

North Texas Tollway Authority
Attn: Executive Director
P.O. Box 260729
Plano, Texas 75026

or to such other address as either party may provide to the other in accordance herewith. All written notices, demands, and other papers or documents served upon the NTTA or the Consultant in the aforesaid manner will be deemed served or delivered for all purposes hereunder either (a) three (3) days following the U.S. Postal Service's postmarked date if mailed, registered or certified mail and return receipt requested, or (b) immediately upon actual delivery or refusal of delivery if transmitted by courier or overnight delivery service.

14. COMPLIANCE WITH LAWS

The Consultant and its employees and agents will strictly comply with all laws, rules and regulations applicable to its performance of this Agreement. The Consultant warrants to the NTTA that it has obtained and will maintain all required permits, licenses, registrations, and filings in connection with its performance of this Agreement.

15. WARRANTIES

(1) The Consultant represents, warrants and covenants to the NTTA that (i) it has the full right, power, capacity and legal authority to enter into and fully perform all obligations required of the Consultant under this Agreement in accordance with its terms, (ii) the execution, delivery, and performance of this Agreement has been duly authorized by the Consultant and does not and will not violate or cause a breach of any other agreement

or obligation to which it is a party or by which it is bound, and (iii) no approval or other action by any third party is required in connection herewith.

- (2) The Consultant warrants that the Services will be performed consistent with the highest prevailing professional or industry standards. The NTTA agrees to report in writing any then-known deficiencies in the Services to the Consultant within sixty (60) days of the NTTA's discovery of a breach of warranty. As a result of the breach of warranty, the NTTA will be entitled to the expeditious cure of any deficiencies in a manner least disruptive to the operation of the NTTA's business. If the Consultant is unable to perform the work necessary to cure the deficiencies, the NTTA will be entitled to recover the fees paid to the Consultant and to recover any additional costs incurred by the NTTA specific to curing the deficiency in the Consultant's performance of the Services. Nothing contained in this section, nor the NTTA's making of a warranty claim under this section, will be deemed to constitute an election of remedies by the NTTA for a breach by the Consultant under this Agreement, nor will this section or the making of a claim under this section limit or otherwise impair the NTTA's ability to pursue any and all remedies available under this Agreement or under applicable law for a breach by the Consultant under this Agreement.

16. COMPLIANCE WITH DIVERSITY POLICY

The NTTA is an equal opportunity employer. In conducting business with or on behalf of the NTTA, the Consultant will not discriminate against any person because of race, age, color, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, place of birth, or veteran status. The Consultant further acknowledges the NTTA's commitment to facilitate and assure the participation of disadvantaged and small businesses in the NTTA's procurement process through its Disadvantaged, Minority, Women-Owned and Small Business Enterprises (Diversity) Policy ("Diversity Policy") and agrees that it will use good faith efforts to assist the NTTA in the NTTA's fulfillment of such commitment. It is the policy of the NTTA's Board of Directors that disadvantaged and small businesses have the maximum practicable opportunity to participate in the awarding of NTTA contracts and related subcontracts. To do so the NTTA has developed its Diversity Policy, incorporated by reference into this Agreement for all purposes as if fully set forth herein. The NTTA requires that all consultants, including certified D/M/WBE firms, agree to submit a fully executed copy of the Commitment Agreement Form For All Subcontractors (Form 4906) to the NTTA, a copy of which is attached hereto as Exhibit D and incorporated herein for all purposes, in relation to this Agreement. In connection with any subletting, assignment, or transfer of its work or obligations hereunder, the Consultant will serve in a role typically described as the prime contractor with respect to all Services provided pursuant to this Agreement and will be responsible for ensuring the delivery all of the Services of whatever kind provided pursuant to this Agreement in compliance with the terms of this Agreement. The Consultant will also submit a monthly report of the status of its D/M/W/SBE sub-consultants. Reports will be submitted monthly with the Consultant's monthly invoices to the NTTA's Business Diversity Liaison and the applicable department director in the form designated by the Business Diversity Liaison.

17. KEY PERSONNEL

The Consultant acknowledges and agrees that the individuals identified on the "organizational chart, submitted within the Response and attached hereto as Exhibit E and incorporated herein for all purposes, are key and integral to the satisfactory performance of the Consultant under this Agreement ("Key Personnel"). The Consultant further agrees that

the Key Personnel will devote substantial and sufficient time and attention to the proper performance of the Services. INSERT NAME will serve as the Consultant's primary contact with the NTTA ("Primary Contact") for the provision of the Services. The death or disability of the Primary Contact, his/her disassociation from the Consultant, or his/her failure or inability to devote sufficient time and attention to the Services will, at the NTTA's option, constitute a default requiring the Consultant to promptly replace him/her with a person suitably qualified and otherwise acceptable to the NTTA. If requested by the NTTA, the Consultant must identify in advance possible successors to the Primary Contact, each of whom must be acceptable to the NTTA and, if required by the NTTA, must devote sufficient time and attention to the provision of the Services in order to be prepared to succeed INSERT NAME as Primary Contact, if necessary. In no event may the Consultant remove, transfer, or reassign the Primary Contact or any other Key Personnel except as instructed by, or with the prior written consent of, the NTTA. The Consultant will use best efforts to enhance continuity in the Key Personnel, sub-consultants, and other employees regularly performing the Services. The Consultant must notify the NTTA regarding the scheduling of the Primary Contact's corporate activities, vacations, and other engagements during which he/she is unavailable for the Services.

18. OWNERSHIP OF INFORMATION

Notwithstanding any provision in this Agreement or in common law or statute to the contrary, all of the documents, reports, computer records, discs, tapes, proposals, diagrams, charts, calculations, correspondence, memoranda, and other data and materials, and any part thereof, created, compiled or to be compiled by or on behalf of the Consultant, together with all materials and data furnished to it by the NTTA, will at all times be and remain the property of the NTTA and will not be subject to any restriction or limitation on their further use by or on behalf of the NTTA; and, if at any time demand be made by the NTTA for any of the above materials, records, and documents, whether after expiration or termination of this Agreement or otherwise, such will be turned over to the NTTA without delay. The Consultant will have the right to retain a copy of the above materials, records and documents for its archives.

19. CONFLICTS OF INTEREST

- (1) The Consultant represents to the NTTA, as of the Effective Date and throughout the Term, that it, and each of its employees, agents, subcontractors, and sub-consultants: (i) has no financial or other beneficial interest in any contractor, consultant, underwriter, product or service evaluated or recommended by the Consultant, except as expressly disclosed in writing to the NTTA, (ii) will discharge its responsibilities under this Agreement professionally, impartially, and independently, and after considering all relevant information related thereto, and (iii) is under no contractual or other restriction or obligation, the compliance with which is inconsistent with the execution of this Agreement or the performance of its obligations hereunder.
- (2) The Consultant will not knowingly support, advance, or endorse any project, plan, position, or initiative that is hostile to the NTTA's announced position or interests. If the Consultant believes that another client is seeking services or support for such a matter, it must contact the NTTA immediately. The NTTA will determine if (and the extent to which) the matter is hostile to the NTTA's position or interests, and what steps, if any, are required, which may include the Consultant declining work offered by another party. A project, plan, position, or initiative is "hostile" to the NTTA's position or interests if it (i) substantially and materially conflicts with, (ii) is substantively incompatible with, or (iii) is

overtly antagonistic to that position or those interests. The NTTA will afford the Consultant a reasonable opportunity to present alternatives or modifications to the NTTA's required action(s) or to otherwise address the NTTA's concerns. However, after providing that opportunity and considering its proposals, the NTTA's decision will be final.

20. THE RFP

The RFP is hereby incorporated herein by reference for all purposes; provided, however, that in the event of any conflict between the RFP and any other provision of or exhibit to this Agreement, the RFP will be subordinate and the other provision or exhibit to this Agreement will control.

21. THE RESPONSE

The Response is attached hereto as Exhibit F and made a part hereof for all purposes; provided, however, that in the event of any conflict between the Response and any other provision of or exhibit to this Agreement, the Response will be subordinate and the other provision or exhibit to this Agreement will control.

22. MISCELLANEOUS

(1) **THE NTTA INDEMNIFIED.** THE CONSULTANT WILL INDEMNIFY AND HOLD HARMLESS THE NTTA AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS, AND REPRESENTATIVES (COLLECTIVELY, THE "INDEMNITEES") FROM ANY CLAIMS, COSTS, OR LIABILITIES OF ANY TYPE OR NATURE, AND BY OR TO ANY PERSONS WHOMSOEVER, TO THE EXTENT ARISING FROM THE CONSULTANT'S PERFORMANCE OF THE SERVICES, OR THE CONSULTANT'S FAILURE TO PERFORM SUCH SERVICES WHETHER SUCH CLAIM OR LIABILITY IS BASED IN TORT OR STRICT LIABILITY OR CAUSED BY AN EMPLOYEE, AGENT, CONTRACTOR, CONSULTANT OR REPRESENTATIVE OF THE CONSULTANT AGAINST THE INDEMNITEES. IN SUCH EVENT, THE CONSULTANT ALSO WILL INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES FROM ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, INCURRED BY THE NTTA IN LITIGATING OR OTHERWISE RESPONDING TO SAID CLAIM OR LIABILITIES. IN THE EVENT THAT ANY OF THE INDEMNITEES IS/ARE FOUND TO BE PARTIALLY AT FAULT, THE CONSULTANT WILL, NEVERTHELESS, INDEMNIFY THE INDEMNITEES FROM AND AGAINST THE EXPENSES, CLAIMS, OR LIABILITIES RELATING TO THE PERCENTAGE OF FAULT ATTRIBUTABLE TO THE CONSULTANT, ITS EMPLOYEES, AGENTS, CONTRACTORS, CONSULTANTS OR REPRESENTATIVES OR TO THEIR CONDUCT. THE PROVISIONS OF THIS SECTION WILL SURVIVE THE TERMINATION OF THIS AGREEMENT FOR ANY REASON, INCLUDING PURSUANT TO ANY TERMINATION RIGHT PROVIDED FOR OR ALLOWED HEREUNDER.

- (2) Confidentiality. The Consultant acknowledges that any information that it or its employees, agents, subcontractors, sub-consultants or representatives obtains regarding the operation or financial condition of the NTTA, its products, services, policies, personnel, and any other aspect of its operation or financial condition is confidential, and will not be revealed or disclosed to any person, company, or other entity without the express written consent of the NTTA. The Consultant hereby acknowledges and agrees that each of its employees, agents, subcontractors, sub-consultants, or representatives performing work or services on behalf of the NTTA must agree to be bound by the terms of this Agreement. The Consultant hereby agrees that each staff member assigned to work on the Services will sign any confidentiality and/or computer access and security document/form required by the NTTA. The Consultant further agrees that any subcontractor or sub-consultant staff utilized by the Consultant pursuant to this Agreement must also sign the same.
- (3) Personnel, Equipment, and Material. Except as otherwise specified, the Consultant will furnish and maintain, at its own expense, adequate and sufficient personnel, equipment, supplies, transportation, and material, in the sole opinion of the NTTA, to perform the Services when and as required, and without delay. All employees of the Consultant will have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of the Consultant who, in the sole opinion of the NTTA, is incompetent or by his/her work or conduct becomes detrimental to the performance of the Services will, upon the request of the NTTA, immediately be removed from association with the Services.
- (4) Acts and Limitations of the NTTA. Anything to be done under this Agreement by the NTTA may be done by such persons, corporations, or firms as the NTTA may designate, except as otherwise provided in this Agreement or by law. Notwithstanding anything herein to the contrary, all covenants and obligations of the NTTA under this Agreement will be deemed to be valid covenants and obligations only to the extent authorized by the Regional Tollway Authority Act and permitted by the laws and the Constitution of the State of Texas, and no officer, director, or employee of the NTTA will have any personal obligations or liability under this Agreement.
- (5) Authority of the Consultant. The Consultant represents and warrants that it is duly formed under the laws of the State of Minnesota and qualified to do business under the laws of the State of Texas, and the individual or individuals executing this Agreement on its behalf are fully authorized to do so without the necessity of any additional action by its board of directors, officers, partners, owners, shareholders, members, or any other party. The Consultant further represents and warrants that the execution, delivery, and performance by the Consultant of this Agreement will neither conflict with any laws, statutes, regulations, or decisions affecting the Consultant nor breach any contractual covenants or restrictions between the Consultant and any other party.

The undersigned signatory or signatories for the Consultant hereby represent and warrant that each signatory is a fully authorized officer, partner, owner, member, or representative, as applicable, of the Consultant and that said signatory has full and complete authority to execute this Agreement on behalf of the Consultant. The NTTA is relying upon the assurances provided in this subparagraph when entering into this Agreement.

- (6) Waiver. The failure of either party to object to or to take affirmative action with respect to any conduct of the other party which is in violation of the terms hereof will not be construed as a waiver thereof, nor of any subsequent breach or wrongful conduct. The

rights and remedies set forth herein are intended to be cumulative, and the exercise of any right or remedy by either party will not preclude or waive its exercise of any other rights or remedies hereunder or pursuant to law or equity.

- (7) Independent Contractor Status. The Consultant will be and act as an independent contractor under this Agreement. Under no circumstances will this Agreement be construed as one of agency, partnership, joint venture or employment, or as creating a joint enterprise, between the parties. Without limiting the foregoing, the purposes for which the Consultant and the NTTA have entered into this Agreement are separate and distinct, and there are no pecuniary interests, common purposes, and/or equal rights of control among the parties hereto. The Consultant acknowledges and agrees that neither it nor any of its employees, sub-consultants, or subcontractors will be considered an employee of the NTTA for any purpose. The Consultant will have no authority to enter into any contract binding upon the NTTA, or to create any obligation on behalf of the NTTA, without express authorization from the Executive Director of the NTTA. Under no circumstances will the Consultant or its employees, agents, sub-consultants, or subcontractors, represent that it serves the NTTA in any capacity other than as an independent contractor.

The Consultant is solely responsible for determining the hours and method of its employees' work, as well as providing all necessary training, instruction, and supervision to its employees so that the Consultant is able to satisfy its obligations under this Agreement. Notwithstanding the foregoing and unless otherwise coordinated with and authorized by the Director of Human Resources, the Consultant acknowledges and agrees that any work by the Consultant to be performed at the NTTA's offices or on the NTTA's premises must be conducted during normal business hours for the NTTA, which are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays, or as otherwise instructed by the NTTA's staff.

Nothing contained in this Agreement will be deemed or construed to create any liability for the NTTA whatsoever with respect to the liabilities, obligations or acts of the Consultant, its employees, agents, sub-consultants, or subcontractors, or any other person.

- (8) Assignment; Successors; and Beneficiaries. The Consultant has no right or authority to assign its rights and/or obligations or to delegate its duties under this Agreement without the NTTA's prior written approval, and such approval may be granted or withheld at the NTTA's sole discretion. Any attempted assignment or delegation without such approval will be void and constitute a material breach of this Agreement. This Agreement and all of the terms and provisions hereof will be binding upon, and will inure to the benefit of, the parties hereto, and their respective successors and approved assigns. In any event, the responsibility for subcontracted, assigned, or transferred work will remain with the Consultant.

Nothing in this Agreement nor in any approval subsequently provided by either party hereto will be construed as giving any benefits, rights, remedies, or claims to any other person, firm, corporation, or other entity, including, without limitation, the public in general or any member thereof, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries, property damage, or any other relief in law or equity in connection with this Agreement.

- (9) No Contingent Fees; Etc. The Consultant warrants that it has neither employed nor

retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. In the event of a breach or violation of this warranty, the NTTA will have the right to annul and terminate this Agreement without liability or, in its sole discretion, to deduct from the compensation or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

- (10) Texas Franchise Tax Certification. The Consultant hereby certifies that it is not delinquent in its Texas Franchise Tax Payments or, alternatively, that it is exempt from, or not subject to, such tax. A false statement concerning the Consultant's franchise tax status will constitute grounds for cancellation of this Agreement at the sole option of the NTTA.
- (11) Sales and Use Tax. The stated amounts of all payments to be made by the NTTA to the Consultant pursuant to this Agreement are inclusive of federal, state, or other taxes, if any, however designated, levied, or based; provided, however, that the NTTA acknowledges and represents that it is a tax-exempt entity under Sections 151.309, et seq., of the Texas Tax Code. A Tax Exemption Certification ("TEC") from the NTTA will be provided the Consultant to avoid sales and uses taxes on any purchases made on behalf of the NTTA under this Agreement. The Consultant will use the TEC solely for purchases made under this Agreement. The Consultant will not be reimbursed for taxes assessed on any purchase to which the NTTA's exemption applies. All copies of the TEC will be destroyed by the Consultant upon termination of this Agreement.
- (12) Conferences. At the request of the NTTA, the Consultant will provide appropriate personnel for conferences at its offices, or attend meetings and conferences at the various offices of the NTTA, project offices, offices of other consultants, and any other reasonably convenient location. Without limiting the foregoing, the Consultant will provide personnel for periodic meetings with underwriters, rating agencies, and other parties when requested by the NTTA. The Consultant will prepare for and appear, and furnish competent witnesses, as may be needed regarding any litigation involving the NTTA's activities, provided that any such activities will entitle the Consultant to additional compensation as reasonably determined by the parties.
- (13) Governing Law; Venue. This Agreement will be governed and construed in accordance with the laws of the State of Texas. The parties hereto acknowledge that venue is proper in Collin County, Texas, for all disputes arising hereunder and waive the right to sue or be sued elsewhere.
- (14) Headings. The section and subparagraph headings set forth herein are for convenience only and do not constitute a substantive part of this Agreement.
- (15) Counterparts. This Agreement may be executed in two or more counterparts, each of which will be an original, but all of which will constitute one and the same instrument.
- (16) Severability. If any provision of this Agreement is deemed to be invalid or unenforceable by any court of competent jurisdiction, then the balance of this Agreement will remain enforceable, and such invalid or unenforceable provision will be enforced by such court to the maximum possible extent.

- (17) Entire Agreement; Amendments. Upon the Effective Date, this Agreement will supersede all prior discussions and agreements of the parties relating to the subject matter hereof. This Agreement constitutes the final, complete, and exclusive understanding between the parties with respect to its subject matter and supersedes all prior or contemporaneous agreements, whether oral or written, in regard thereto. This Agreement cannot be amended or waived except by an agreement in writing signed by authorized representatives of both parties and specifically referring to this Agreement.
- (18) Time is of the Essence. Time is of the essence with respect to the performance and completion of all the Services that specify an agreed-upon completion or delivery date. Without limiting the foregoing, the Consultant will furnish all Services in such a manner and at such times as the development schedules of the applicable projects require so that no delay in the progression of the evaluations, funding, design, or construction of the projects will be caused by or be in any way attributable to the Consultant. If at any time during the Term the Consultant cannot provide the requested Services within the time required by the NTTA or for any other reason, the NTTA, without limiting any other remedy available under this Agreement or at law or equity, reserves the unilateral right to procure the Services from any other source it deems capable of providing those Services.
- (19) Interpretation. No provision of this Agreement will be construed against or interpreted to the disadvantage of any party by any court, other governmental or judicial authority, or arbiter by reason of such party having or being deemed to have drafted, prepared, structured, or dictated such provision.
- (20) Computer System Networks. The NTTA will allow the Consultant to utilize the NTTA's data processing and computer network for programs requested by the Consultant and approved by the NTTA. No software or computer program will be installed onto any of the NTTA's computers without the expressed written approval of the Director of Information Technology, or his/her designee. The Consultant must exercise due diligence to protect and maintain its computer networks in such a manner to minimize any unauthorized intrusions and destruction of information collected or maintained on behalf of the NTTA.
- (21) Revolving Door. The NTTA has adopted an Employee Ethics Policy that includes the following "revolving door" provision: "An employee after leaving NTTA employment will not participate on behalf of any third party in a matter involving the NTTA in which the employee participated while employed at the NTTA. For purposes of this subsection, an employee participated in a matter if the employee made a decision or recommendation on the matter, approved, disapproved or gave advice on the matter, conducted an investigation related to the matter, or took similar action related to the matter."
- Absent express written approval from the NTTA, the Consultant will not direct or allow a former NTTA employee to do any work on behalf of the Consultant that might put the former employee in violation of this provision.
- (22) Vendor Policing of Employee Ethics. The NTTA has adopted an Employee Ethics Policy, <https://www.ntta.org/whoware/policies/Pages/default.aspx>, which, among other things, directs employees to avoid conflicts of interest or appearances of impropriety, comply with the law, and use the NTTA's property for only the NTTA's purposes. The Consultant is expected to be aware of these requirements and promptly report to the NTTA any conduct by an employee that the Consultant reasonably believes may be in

violation of the Policy.

[Execution Page to Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the Effective Date.

NORTH TEXAS TOLLWAY AUTHORITY,
a regional tollway authority and
a political subdivision of the State of Texas

INSERT VENDOR NAME, LLC,
a xxxxx limited liability company

By: _____

Name: Gerald Carrigan

Title: Executive Director

By: _____

Name: INSERT NAME

Title: Managing Director

Date of Execution:

_____/____/2013

Date of Execution:

_____/____/2013

ATTEST:

ATTEST:

By: _____

_____, Secretary

By: Attestation not required

[If the Consultant's governing documents do not require attestation of contracts, type: "Attestation not required" in attestation signature block.]