



**NORTH TEXAS TOLLWAY AUTHORITY
RFP 03387-NTT-00-CS-SM
ENTERPRISE RISK ASSESSMENT**

**PROPOSALS DUE:
May 17, 2012 @ 4:00pm CST
At the following location:
NORTH TEXAS TOLLWAY AUTHORITY
Attn: Procurement Services
5900 West Plano Parkway, Suite 100
Plano, Texas 75093**

**PRE-PROPOSAL MEETING:
May 1, 2012 @ 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

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
- 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. Felix Alvarez, NTTA Director of Procurement Services, at bidpurchasing@ntta.org no later than May 7, 2012 @ 4:00pm CST.

I. GENERAL**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 an Enterprise Risk Assessment.

Sealed proposals marked RFP 03387-NTT-00-CS-SM Enterprise Risk Assessment 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 May 17, 2012, 4:00pm 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. The initial contract period shall be for a period of one year. All deliverables for project should be submitted to the Authority by December 31, 2012. 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 Director of Procurement Services at bidpurchasing@ntta.org, no later than May 7, 2012 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 No. 03387-NTT-00-CS-SM

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 director, 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 respondent as to the meaning of the RFP shall be binding on the North Texas Tollway Authority unless submitted in writing and distributed as an addendum by NTTA. Interpretations and/or clarifications shall 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 shall 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, Respondent 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 "shall," "must" or "will" are equivalent in this RFP and indicate a mandatory requirement or condition, the material deviation from which shall 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 shall 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 shall 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 shall 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 20 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 (these sections do count toward the 20 page count limit):

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 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 20 pages)
4. **Methodology/ Approach :**
 - a. Describe in detail the methodology/approach you propose for the Enterprise Risk Assessment. Provide in detail your proposed approach for each NTTA business area/department.
 - b. Include a timeline for each phase/milestone for the Enterprise Risk Assessment. If progress payments are required along the way, please note the percentage or amount invoiced per milestone completion.
5. **Experience, Qualifications, References:**
 - 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 the services proposed.
 - 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 and resumes of key staff who shall be assigned by Proposer to perform services under the agreement, inclusive of percentage of time and billable hours specifically allotted for project.
 - 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.

- k. Provide the names and contact person(s) of your firm's three (3) most relevant references for which your firm has provided services comparable to the services described herein over the past three (3) years. At a minimum, the following information should be included for each reference:
- Name, address and contact information of references, including email address (reference should be the appropriate staff member that was associated with that project)
 - Description and scope of work
 - Explanation of perceived relevance of the experience to the RFP

6. Cost Proposal

Please submit pricing for the entire scope of work in a lump sum amount. The price submitted should be inclusive of all costs associated with the RFP and Submittal. If progress payments are required, please note the amount and timing on the timeline, criteria C.4.b. Otherwise, the project will be payment upon completion.

III. PROPOSAL REQUIREMENTS

A. SUBMISSION OF PROPOSALS

The proposer must submit one (1) original hard copy and five (5) additional hard copies, plus a copy on CD or thumb drive/flash drive, of the entire written proposal to:

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

The respondent should clearly mark the outermost envelope of the submittal with RFP 03387-NTT-00-CS-SM Enterprise Risk Assessment. The NTTA is not responsible for submittals received but not clearly marked. It shall 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 Proposals will not be accepted. Late Proposals will be returned unopened.

B. SCHEDULE OF EVENTS

Public notification/advertisement	April 13, 2012
	April 20, 2012
Pre-Proposal Meeting	May 1, 2012 10:00am CST
Deadline for submitting questions	May 7, 2012 4:00pm CST
Deadline for answering questions	May 11, 2012 4:00pm CST
RFP Proposals Due	May 17, 2012 4:00pm CST

Questions concerning the RFP are due in writing via e-mail to the Director of Procurement Services at bidpurchasing@ntta.org. All responses to such questions will be distributed to all potential respondents.

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, shall become the property of the Authority regardless of the proposer selected. All copyrighted material must be clearly marked indicating the copyrighted status. NTTA shall 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 in its evaluation and comparison of proposals submitted. The criterion listed is not necessarily an all-inclusive list. The order in which they appear is not intended to indicate their relative importance, a scoring criteria is provided in of this document in Attachment E.

- Cost Proposal 40%
- Methodology/Approach 35%
- Firm's Experience, Qualifications, References 20%
- Conformance with Proposal Submittal Guidelines (Section II) & Proposal Requirements (Section III) 5%

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 shall 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. 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

C. 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 and address designated on the proposal. 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.

D. 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 shall be deemed to have passed to the Authority at the time the Vendor takes possession or earlier, and such consumable items shall immediately be marked, labeled, or physically identified as the property of the Authority, to the extent practical.

E. 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".

F. LAWS AND REGULATIONS

All applicable State of Texas and federal laws, ordinances, licenses and regulations of a governmental body having jurisdiction shall 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.

G. 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.

H. 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 shall 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, shall be incorporated into and made a part of the final contract.

I. 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.

J. 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.

K. 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, additional the affidavit must be notarized. These completed forms must be included in the section labeled "REQUIRED NTTA FORMS".

L. 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, national origin, ancestry or physical handicap.

M. BUSINESS DIVERSITY POLICY INFORMATION

The Business Diversity Department (BDD) would request that the proposing firm utilize a good faith effort in including D/M/WBE participants on this procurement. All responding firms, including D/M/WBE certified firms, must submit documentation regarding all subcontractor utilization. A copy of our current Diversity Policy is provided as Attachment C and can be located on the BDD web page <http://www.ntta.org/WorkingWithUs/Business+Diversity+Department/>.

Additional questions and/or clarification can be obtained by contacting Business Diversity at businessdiversity@ntta.org. Please copy the Procurement Services Department at bidpurchasing@ntta.org on all correspondence. Form 4906 must show the portion of the project that will be assigned to all Contractors and must be signed by the proposer and the contractor.

N. DISCLAIMER OF LIABILITY

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

O. INSURANCE

Insurance requirements for this project can be found in Attachment G. If selected for this project the selected firm will be required to provide proof of all coverage and waivers described in Attachment G. 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.

P. 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.

Q. 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.

R. 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.

S. SAMPLE CONTRACT

A sample contract has been provided in Attachment F included herein. If chosen for this project firms would be expected to sign a contract substantially similar to the sample provided in Attachment F, it is therefore recommended that all firms review the sample contract. All exceptions to the terms of the Sample Contract must be included in Proposer's submittal.

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 shall include, but not be 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 shall be held in strict confidence. Respondent shall 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 shall 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 shall pay to the NTTA all damages which arise from said breach. Respondent understands and acknowledges that its responsibilities under this Agreement shall 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.

(continued)

IN WITNESS THEREOF, executed this _____ day of _____, 201____.

RESPONDENT:

(Signature)

Name/Title: _____

Company Name: _____

ATTACHMENT B

(Document on following page)

CONFLICT OF INTEREST QUESTIONNAIRE		FORM CIQ
For vendor or other person doing business with local governmental entity		
<p>This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session. 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>	OFFICE USE ONLY	
<p>1 Name of person who has a business relationship with local governmental entity.</p>	Date Received	
<p>2 <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>		
<p>3 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>		
<p>4</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Signature of person doing business with the governmental entity</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Date</p>		

AFFIDAVIT CONFLICT OF INTEREST AND DISCLOSURE STATEMENT

Project:	Enterprise Risk Assessment
RFQ number:	RFP 03387-NTT-00-CS-SM

THE STATE OF TEXAS §

§

COUNTY OF _____ §

Before me, the undersigned, on this day personally appeared _____ who, being by me duly sworn, upon oath says: that he/she is duly qualified and authorized to make this affidavit for and on behalf of _____ (“Contractor”) and is fully cognizant of the facts herein set out; that Contractor covenants and agrees that Contractor’s officers, employees, agents or board members have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract; and that Contractor’s officers, employees, agents, or board members have not and will neither solicit nor accept gifts, gratuities, favors or anything of monetary value from the Authority, employees, board members, agents, and representatives other than that which is the required compensation for services rendered or to be rendered pursuant to Contract.

Contractor’s acknowledges that one or more of the items listed below are applicable to Contractor officers, its employee(s) agents or board member. Please check all that apply.

I have no business or familial relationship with a board member, employee, consultant or agent of the Authority, one of its member counties or another toll agency.

I have a business 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 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 _____, 20____, 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 (NTTA) is committed to providing contracting opportunities for disadvantaged, minority, women-owned, and small business enterprises (D/M/WBE). In this regard, the NTTA 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 Disadvantaged, 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 NTTA's Diversity Policy. The CCM is approved and incorporated into the contract by reference for all purposes by the NTTA.

The CCM and the Diversity Policy may be obtained online at the NTTA website at <http://www.ntta.org/WorkingWithUs/Business+Diversity+Department/> 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 the D/M/WBE goal the NTTA has established for a contract. 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 shall 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 their use of certified D/M/WBE firms for this project on the Commitment Agreement Form (Form 4906).

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 <http://www.ntta.org/WorkingWithUs/Business+Diversity+Department/>

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 must electronically submit their 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: <http://pro.prismcompliance.com>

6. Noncompliance enforcement

All participants in 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: [Show Contract number]

Project: [Description of project]

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 (GFE)** _____% 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

Introduction

The NTTA PRISM contract compliance software (NTTA PRISM system) is the NTTA'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 shall 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 being 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.

Contractor's Obligations

The Contractor shall 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: <http://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 shall 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 ntta.org under "Working With Us", and "Business Diversity".

<http://www.ntta.org/WorkingWithUs/Business+Diversity+Department/>

Within 14 days after the Contract is awarded, the Contractor shall 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 shall complete the training prior to receiving access to the NTTA PRISM system; no exceptions will be granted. The Contractor shall 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.

Equipment

The Contractor shall 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" . 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: <http://pro.prismcompliance.com>. In the event that the NTTA PRISM system becomes inoperable or unavailable to the Contractor, the Contractor shall 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 shall upload the required documentation through the NTTA PRISM system.

Documentation

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

Noncompliance

The Contractor shall 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 website at ntta.org under "Working With Us", and "Business Diversity".

<http://www.ntta.org/WorkingWithUs/Business+Diversity+Department/>

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 by the NTTA.

ATTACHMENT C

BUSINESS DIVERSITY REPORTING FORMS

FORM 4906

FORM 4907

FORM 4908



**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

**RFP 03387-NTT-00-CS-SM
ENTERPRISE RISK ASSESSMENT**

The North Texas Tollway Authority (NTTA), System Incident Management/Procurement Department is seeking proposals from individual firms or teams with experience in developing and/or facilitating an Enterprise Risk Assessment (ERA) project as a foundation for eventually developing an Enterprise Risk Management (ERM) program.

Specifically, the RFP objectively seeks to:

- Define key terms including risk appetite
- Define your proposed risk assessment methodology to be utilized for NTTA
- Assist in Developing the Authority's risk philosophy
- The scope of the project is an enterprise review which also includes a fraud risk assessment and Information Technology risk assessment
- Develop and identify tools to be utilized for annual risk assessment process
- Create an outline for the future implementation of the enterprise risk management program and staffing
- Report with an in-depth analysis of results and recommendations, both Board and departmental levels, with short-term, mid-term and long-term solutions, and corresponding PowerPoint presentation. The selected vendor should be available for presenting to the NTTA Board when applicable.

The following paragraphs below are intended to provide an overview of the North Texas Tollway Authority;

THE NORTH TEXAS TOLLWAY AUTHORITY

INTRODUCTION AND OVERSIGHT

Introduction

The North Texas Tollway Authority (the "*Authority*") is a regional tollway authority governed by Chapter 366 of the Texas Transportation Code (the "*Authority Act*") and a political subdivision of the State of Texas currently serving Collin, Dallas, Denton, and Tarrant Counties (the "*Member Counties*"). It came into existence on September 1, 1997 as the successor to the Texas Turnpike Authority (the "*TTA*"), an agency of the State of Texas that was created in 1953 and abolished in 1997. At that time, all

obligations of the TTA related to the system of toll roads operated by the TTA were assumed by the Authority. Also, the Authority assumed ownership of the system of toll roads then in existence (as then in existence and subsequently expanded, the "*NTTA System*"). The NTTA System is currently comprised of the Dallas North Tollway (the "*DNT*"), the Addison Airport Toll Tunnel (the "*AATT*"), the President George Bush Turnpike (the "*PGBT*"), the President George Bush Turnpike Eastern Extension (the "*PGBT EE*"), the Mountain Creek Lake Bridge (the "*MCLB*"), the Lewisville Lake Toll Bridge (the "*LLTB*") and the Sam Rayburn Tollway (subject to the reversionary interest of the Texas Department of Transportation ("*TxDOT*") on September 1, 2058) (the "*SRT*").

In April 2011, the Authority created a separate system of toll roads known as the "Special Projects System." The Special Projects System is comprised of an 11.5-mile tollway between SH 183 south to IH 20 in Dallas County and designated as the President George Bush Turnpike Western Extension (State Highway 161) (the "*PGBT WE*") and a 27.6 mile tollway between IH 30 near the Central Business District in the City of Fort Worth and US 67 in Cleburne designated as the Chisholm Trail Parkway (the "*CTP*"). **The North Texas Tollway Authority System First Tier Revenue Refunding Bonds, Series 2012 (the "*Series 2012 Bonds*") will be secured only by the NTTA System revenues and certain funds and accounts established pursuant to the Trust Agreement and not by the Special Projects System revenues or other assets of the Authority. Bonds issued to finance the Special Projects System are not secured by the revenues of the NTTA System.**

The Authority's Board of Directors (the "*Board*") has adopted a mission statement which provides that the mission of the Authority is to enhance mobility through responsible and innovative tolling solutions.

The Authority Act authorizes the Authority to acquire, construct, maintain, repair, and operate turnpike projects such as those included in the NTTA System and the Special Projects System at such locations within its jurisdiction as may be determined by the Authority and to issue bonds and other obligations for the purpose of paying all or any part of the cost of a turnpike project.

Counties' Oversight

Under the Authority Act, the Authority must issue, in each even-numbered year, a strategic plan for its operations covering the Authority's next five fiscal years. The strategic plan must contain information of the type specified by the commissioners' courts of the Member Counties.

Not later than March 31 of each year, the Authority must file with the commissioners' court of each Member County a written report describing all turnpike revenue bond issuances anticipated by the Authority during the coming year, the financial condition of the Authority, project schedules for all Authority projects, and the status of the Authority's performance under its most recent strategic plan. At the invitation of the commissioners' court of a Member County, representatives of the Board

and the executive director of the Authority will present the report to the commissioners, answer questions and receive comments from the commissioners.

Not later than the 90th day before the date of issuance of revenue bonds by the Authority, the Authority must notify each Member County's commissioners' court of any planned bond issue. The Authority notified the Member Counties of the issuance of the Series 2012 Bonds on **[January 26, 2012.]** Such notification remains effective through December 31, 2012.

During the Regular Session of the 82nd Texas Legislature that concluded on May 30, 2011, proposed legislation was introduced that would have required the Authority to undergo either an annual audit by the Texas State Auditor or a review by the Texas Sunset Advisory Commission. That effort to subject the Authority to an annual state audit or state review was ultimately unsuccessful in the Regular Session, and no legislation to that effect was ultimately enacted by the Legislature during the Regular Session or otherwise.

In response to the possibility of state review, one or more of the Member Counties proposed the alternative of a "local review" under which the Authority would pay an outside firm to evaluate its operational, administrative and finance functions. Alvarez & Marsal Business Consulting LLC ("*Alvarez*") along with its partner firm Animato was selected by the Member Counties to perform the review and was directed by the county judges of the Member Counties, along with the Authority's chairman. The final report containing Alvarez's findings and recommendations (the "*Alvarez Review*") was presented to the Board on October 18, 2011. The recommendations are not binding on the Board or the Authority, but the Board indicated it will carefully consider the recommendations over the next year.

The Alvarez Review made a number of recommendations on governance, administrative and operational practices. The Alvarez Review emphasized that the recommendations come in the context of an organization with many strengths and a reputation as an international leader in the toll industry. The strengths noted include the Authority's strong finance and project delivery functions, its ability to build and maintain toll roads in a timely manner, and high customer satisfaction.

Recommendations include (i) the institution of a more effective governance model, (ii) strengthening Board conflicts of interest policies and procedures, (iii) changes in the Authority's organizational structure and strengthening its financial analytics capabilities, (iv) a comprehensive review of the collections organization and processes, and (v) the development of an updated and actively managed strategic and long range plan. The Alvarez Review did not find any malfeasance or impropriety at the Authority.

GOVERNMENT AND MANAGEMENT

The Board of Directors

The Authority is governed by a nine-member appointed Board. One of the directors, who must be from a county outside the Authority but adjacent to one of the Member Counties, is appointed by the Governor of Texas. The commissioners' court of each Member County appoints two directors to the Board. See "**Authority Board, Administration, and Consultants and Advisors**" in the forepart to this Official Statement for current Board membership by Member County, the Board members' length of service, principal occupations, and the dates of expiration of their terms of office. Directors serve staggered two-year terms and may be reappointed to the Board. Upon the expiration of a director's stated term, the director remains in office until reappointed or his or her successor has been appointed and assumes the office.

If a County adjacent to a Member County petitions to join the Authority, and the Board approves that petition, the Board will be enlarged by one seat, to be filled by appointment of the county commissioners of the petitioning County.

The Board appoints an executive director who is responsible for day-to-day operations of the Authority, including general management and hiring and termination of employees, as well as other duties described in the Authority's bylaws.

THE NTTA SYSTEM

General

The Authority operates and maintains the NTTA System. The NTTA System currently consists of the DNT, the AATT, the PGBT, the PGBT EE, the MCLB, the LLTB, and the SRT. The SRT is subject to the reversionary interest of TxDOT on September 1, 2058.

The NTTA System also includes such additional extensions, expansions, improvements, and enlargements to the NTTA System as may be designated by the Board. The average daily revenue vehicle transactions on the NTTA System increased from 630,260 in fiscal year 2001 to approximately 1,406,724 in fiscal year 2011. From fiscal year 2001 to fiscal year 2011, as additional segments of the PGBT, SRT and DNT were opened to traffic and as the LLTB, SRT and PGBT EE were added, the lane miles of the NTTA System increased from approximately 272 to approximately 744. Presented below are descriptions of the seven existing components of the NTTA System, other committed NTTA System extensions, other potential Authority projects, and a discussion of the Authority's operations and its capital improvement program.

The Authority has also established and operates the Special Projects System. **The Series 2012 Bonds will be secured only by the NTTA System revenues and not by the Special Projects System revenues or other assets of the Authority.**

In the future the Authority may refinance the debt related to the Special Projects System as NTTA System debt and make the facilities that are a part of the Special Projects System a part of the NTTA System.

Electronic Tolling

The Authority uses the Regional Integrated Toll Enhancements ("*RITE*") System, an integrated software, hardware, and management system for toll collection that enables the Authority to manage its roadways and operations through automated revenue audit and reconciliation, consolidated reporting, violation-loss recovery, customer account management, and system and operation management and maintenance. All of the roadways use an all electronic toll collection system ("*All-ETC*"), including Automatic Vehicle Identification ("*AVI*") and video tolling, to maximize traffic flow. The primary method is AVI, where a vehicle is recognized and tolls are collected through communications with a TollTag transponder or other transponder that is interoperable with the TollTag system. With video tolling, an image of the vehicle's license plate is captured in the lane and used to identify the vehicle's owner for invoicing.

Operations

The Authority and its predecessor have operated toll roads in the North Texas region for more than 50 years. The number of active TollTags is over 2.25 million as of December 31, 2011. The NTTA System currently utilizes a main lane gantry ("*MLG*") configuration for toll collection. Each facility has MLGs at which tolls are collected in both directions, with ramp toll gantries to prohibit toll-free entrance or exit from the NTTA System. The entire NTTA System was converted to All-ETC on December 11, 2010 which eliminated cash toll collection as well as manned toll booths. Under the current toll schedule, the weighted average two-axle TollTag toll rate for the NTTA System is approximately \$0.153 per mile.

The DNT has four MLGs with three lanes in each direction and 15 pairs of ramp toll gantries. The PGBT has five MLGs with three or four lanes in each direction and 15 pairs of ramp toll gantries. The SRT has three MLGs with three lanes in each direction and 40 ramp toll gantries. The PGBT EE has one MLG with three lanes in each direction and six pairs of ramp toll gantries. There is one MLG at each of the AATT, the LLTB and the MCLB.

To administer the NTTA System and the Special Projects System, the Authority has [639]employees (with the authority to increase the number of employees to [717] involved in maintenance, customer service, administration, project delivery, finance, human resources, government affairs, information technology, legal, communications and marketing, loss prevention, internal audit and business diversity.

The variance between traffic using the facility and tolls actually collected is an issue for all modern toll systems that seek to maximize "throughput" on existing facilities by increasing reliance on electronic toll collection and express lanes. Using a calculation that takes into account violation invoices, images in process for collection and violation administration fees collected, the violation percentages for the NTTA System for 2009, 2010 and 2011 were 3.58%, 5.55%, and 20.52%, respectively. In

2009, in order to reduce leakage rates, management installed additional cameras on the roadways, improved picture quality image due to enhanced maintenance and pursued more aggressive collection practices. The increase in violation percentage in 2010 was primarily due to converting to All-ETC and the payment lag associated with billing transactions as opposed to the immediacy of cash payments.

Legislative Changes to Toll Collection Process

Senate Bill 469 ("*SB 469*") was passed by the 82nd Texas Legislature and became effective on September 1, 2011. SB 469 made several changes to the statutory provisions controlling the Authority's toll collection process set forth in Texas Transportation Code Section 366.178. First, it provides that the Authority may charge an administrative fee of not more than \$25.00, in addition to the invoiced and unpaid tolls, on the first notice of nonpayment sent the registered owner of a nonpaying vehicle. If a second notice of nonpayment is sent, SB 469 allows the Authority to seek payment of the initial \$25.00 administrative fee, the unpaid tolls, plus an additional administrative fee of \$25.00 for each unpaid toll, not to exceed a total of \$200.00. If a third notice of nonpayment is sent, the Authority may seek payment of all amounts sought in the second notice, plus any third-party collection service fees; further, the registered owner is then subject to prosecution, and SB 469 prohibits waiver by the court of the unpaid tolls, administrative fees, and third-party collection costs unless it finds that the registered owner is indigent. SB 469 also amends Texas Transportation Code Section 366.178 to more explicitly reference the Authority's current video tolling practices. The Authority's current toll collection practices comply with SB 469.

In order to implement the changes required by SB 469, areas of activity have been identified and the status of these activities are continually monitored. Changes implemented include RITE System upgrades, customer service business rules and process changes, invoicing redesign, collection agency and court process changes, and Government Affairs and Communications key messages and public outreach. The Authority's current toll collection practices comply with SB 469.

Attachment E Evaluation Criteria Score Sheet

Proposer	
Review Advisory Panel Member	

Scoring Criteria under each area are listed to assist in the point determination.

Weight Points	Criteria	Awarded
40	Cost Proposal	
35	Methodology/Approach	
20	Experience, Qualifications, References	
5	Conformance with Proposal Submittal Guidelines (Section II) & Proposal Requirements (Section III)	
	<u>Comments</u>	
100	<u>Total Points</u>	

NOTE: Although the Business Diversity Component has been assigned a Good Faith Effort (GFE), the selected Vendor would still need to be pursuant to the Authority's D/M/WBE Policy as outlined in Attachment C and "Business Diversity Department Contractors Compliance Handbook."

ATTACHMENT F

SAMPLE CONTRACT

**AGREEMENT FOR INSERT BID NAME
THE NORTH TEXAS TOLLWAY AUTHORITY
AND**

**INSERT CONTRACTOR NAME
Contract No. XXXXX-XX-XX-XX**

THIS AGREEMENT (the "Agreement") is made and entered into as of _____, 2012 (the "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 (the "Authority"), and **Contractor**, a **Texas corporation/limited liability company**, whose address is **800 Governors Row, Dallas, TX.75247** (the "Contractor") (collectively the "Parties").

WITNESSETH

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

WHEREAS, the Authority issued Competitive Sealed Bid/Proposal No. **xxxxx-xx-xx-xx** for **xxxxxxx**, seeking competitive sealed bids/proposals for **insert name here** and to perform such work as may be incidental thereto, which is attached hereto as Exhibit "A" and incorporated herein in its entirety by reference for all purposes (collectively the "Bid/Proposal Request"); and

WHEREAS, Contractor timely submitted a sealed bid/proposal to provide goods/services in response to the Bid/Proposal Request, which is attached hereto as Exhibit "B" and incorporated herein in its entirety by reference for all purposes (the "Submittal"); and

WHEREAS, the Authority has selected Contractor to provide the **insert service or contract name** sought in the Bid/Proposal Request;

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

1) DUTIES OF CONTRACTOR

- a) The Contractor covenants and agrees to provide those services/goods detailed in the Bid/Proposal Request, the Submittal, and supporting documentation (collectively the “Services/Goods”).
- b) The Contractor covenants and agrees that the Services/Goods shall be of the highest quality, complete in all respects, meeting all specifications and criteria in Bid/Proposal No. xxxxx-xx-xx-xx, comply fully with the terms of this Agreement, and be subject to the approval of the Authority.

2) TIME OF PERFORMANCE; SUSPENSION OF WORK

- a) The Contractor agrees to begin performance of the Services or providing Goods no later than **insert date**.
- b) Notwithstanding the foregoing, the Authority may elect to suspend the performance of the Contractor, but not terminate this Agreement, by providing the Contractor with thirty (30) days’ prior written notice to that effect. Thereafter, Contractor’s performance may be reinstated and resumed in full force and effect upon receipt from the Authority of thirty (30) days’ prior written notice requesting same. The Contractor shall not be entitled to any damages or other compensation of any form in the event that the Authority exercises its right to suspend performance; provided, however, that the completion period shall be extended for a period of time determined by the Authority at its discretion to allow for said suspension of performance.
- c) The Contractor agrees that no claims for damages or for other compensation shall be made by the Contractor for any delays or hindrances occurring during the performance of any portion of this Agreement. Such delays or hindrances, if any, may be provided for by an extension of time for such reasonable periods as the Authority may decide at its discretion.

3) AGREEMENT DOCUMENTS

- a) The following documents form the “Agreement Documents” and shall be interpreted according to the following order of precedence:
 - i) This Agreement;
 - ii) The Bid/Proposal Request attached hereto as Exhibit “A”; and
 - iii) The Submittal attached hereto as Exhibit “B”.
- b) Notwithstanding the order of precedence among Agreement Documents set forth in this Section, if an Agreement Document contains differing provisions on the same subject matter than another Agreement Document, the provisions that establish the higher quality of Goods, manner or method of performing the Services or use more stringent standards will prevail, unless otherwise specified herein. Further, in the event of a conflict among any standards, criteria, requirements, conditions, procedures, specifications or other provisions

applicable to the Services/Goods established by reference to a described manual or publication within an Agreement Document or set of Agreement Documents, the standard, criterion, requirement, condition, procedure, specification or other provision offering higher quality or better performance will apply, unless NTTA, in its sole discretion, approves otherwise in writing. If either party becomes aware of any such conflict, it shall promptly notify the other party of the conflict. NTTA shall issue a written determination respecting which of the conflicting items is to apply promptly after it becomes aware of any such conflict.

4) COMPENSATION

- a) The Contractor agrees to accept the consideration described in the Submittal as full and sufficient compensation for the satisfactory performance and its other obligations under this Agreement. Payments by the Authority shall be inclusive of all federal, state, and local taxes, and shall constitute full payment for the Services/Goods and all resources required to deliver the Services/Goods, including but not limited to materials, training, equipment used, travel, overhead, and expenses.
- b) If the Authority shall materially change the scope of the Services or materially revise features of the Services from those shown and described in the Bid/Proposal Request, then the fees to be paid to the Contractor shall be subject to adjustment upward or downward as specified by mutual written agreement signed by the Authority and the Contractor prior to such change.
- c) If after paying for the Services/Goods or any other products or deliverables, the Authority determines that the Services/Goods, products or deliverables do not satisfy the requirements of this Agreement, the Authority may reject them and the Contractor shall return the compensation received therefore. No payment by the Authority shall relieve the Contractor of its obligation to timely deliver the Services/Goods required under this Agreement. In addition to all other available rights and remedies, the Authority may set off amounts owed by the Contractor under this Agreement, against amounts owed by the Authority to the Contractor.
- d) The Contractor shall provide fully documented and accurate itemized statements of invoices with appropriate and applicable attachments, including statistical and programmatic documentation reports, as required. Each statement shall, at a minimum, include a description of the Good/Services, the day(s) and the time during the day(s) that the Contractor performed the services, and the total amount billed for the Goods/Services rendered. The Authority shall review and approve each statement in a timely manner and compensate Contractor within thirty (30) business days of the statement's receipt. The Authority shall have the right to withhold all or part of any payments to the Contractor to offset any payment or reimbursement made to Contractor for ineligible expenditures, use or sales taxes assessed for which the Authority is exempt, undocumented units of service billed, and any profit made by the Contractor not provided for in this Agreement.

5) INSURANCE

- a) Prior to beginning its performance under this Agreement, the Contractor shall, at its own expense, obtain insurance coverage in the amounts specified in the Bid/Proposal Request. The Contractor hereby agrees that it shall maintain any and all required insurance in full force and effect during the term of this Agreement or for a longer term as may be otherwise provided for hereunder.
- b) The Contractor 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 minus X" or better.
- c) Upon the execution of this Agreement by the Contractor, the Contractor shall furnish certificates of insurance, on the Agency Company Organization Research & Development Form 25 (i.e., ACORD Form 25), acceptable to the Authority evidencing compliance with the requirements of this section. The certificates shall indicate the name of the insured, the name of the 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 shall name the Authority as an additional insured. On all policies and certificates, the insurer shall certify that the aggregate amount shown on insurance limits is in full force and has not been diminished. The insurance carrier shall include the following statement in each of the insurance policies required under this Agreement: "This policy shall 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".

6) TERM; TERMINATION

- a) The term of this Agreement will start on **DATE (NTP)** and shall remain in effect for a period of one year unless otherwise terminated by either party in accordance with the provisions of this Agreement (the "Term").
- b) This Agreement may be terminated by the Authority upon thirty (30) days written notice to the Contractor for any reason.
- c) In addition to any other remedy set forth in this Agreement or otherwise available at law or in equity, the Authority may terminate this Agreement by written notice to the Contractor at any time, without prejudice to any other legal rights to which the Authority may be entitled, upon the occurrence of any one or more of the following:
 - i) the Authority's determination, in its sole judgment, that the Contractor's performance under this Agreement is unsatisfactory; or
 - ii) the Contractor is default in the performance of any of the provisions of this Agreement; or
 - iii) any representations or warranties made by the Contractor to the Authority prove to be untrue or inaccurate in any material respect.

- d) If the Authority, in its sole judgment, determines that the Contractor's performance is unsatisfactory, or if the Contractor is judged by the Authority to be in default of its obligations under this Agreement, then the Authority may immediately terminate this Agreement and shall have a right to set off or otherwise recover any damages incurred by reason of the Contractor's breach hereof. The Authority's rights and options to terminate this Agreement shall be in addition to, and not in lieu of, any and all rights, actions, options, and privileges otherwise available to the Authority 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 Contractor hereunder, the Authority may withhold payment of any sums that the Contractor claims are owed by the Authority pending determination of the amount of any setoff or damages available to or suffered by the Authority due to the Contractor's failure to satisfactorily perform under this Agreement.
- e) Termination of this Agreement for any reason shall 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 Authority makes payments hereunder attributable to periods after termination, the Contractor shall refund those payments promptly to the Authority. If payments attributable to periods before the termination remain unpaid upon the termination of the Agreement, the Authority (or if applicable, the Contractor) shall make those payments promptly after the termination of this Agreement. Except as provided in this Agreement, the Contractor shall not be entitled to any compensation after the effective date of termination. Nothing in this paragraph shall limit the rights otherwise available to a party arising from the breach of this Agreement.

7) INSPECTION OF BOOKS AND RECORDS

The Authority, its employees, agents or any duly authorized representative of the Authority, shall have the right, at all reasonable times, to inspect and examine the books and records of the Contractor, in whatever form said records may be kept, at Contractor's office for all lawful purposes, including but not limited to the following:

- Examination;
- Audit;
- Investigation;
- Contract Administration;
- checking the salary costs and other expenses described and/or contemplated in this Agreement; or
- Otherwise confirming compliance with the terms of this Agreement.

Books and records for the purposes of this section shall include any and all authorization logs, transaction records, books, documents, and papers that are directly pertinent to the performance of the services covered under this Agreement. The Contractor shall maintain

such records, together with such supporting or underlying documents and materials, for the duration of this agreement and, according to the Authority'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 shall be made available, upon request, to the Authority, through its employees, agents, representatives, contractors or other designees, during normal business hours. Contractor 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.

8) SSAE 16 TYPE II AUDIT REQUIREMENT

At the sole discretion of the Authority the following type of audit may be required of firms contracting for services with the Authority. This will not be a requirement of all contractual relationships but will be enforced on an as needed basis where it clearly is in the best interest of the Authority.

Contractor shall cause a SSAE 16 Type II audit to be conducted at least annually, for each location from which the Services/Goods are provided. Consistent with applicable determination of the scope and focus any such audit being determined by the applicable audit standard, the Parties acknowledge that each such SSAE 16 Type II audit shall include within its general focus vendor's policies, procedures and internal controls during the preceding twelve (12) months. As part of the sample, the Contractor shall ensure that the Authority's data is included. Contractor will ensure that the SSAE 16 Type II audit includes all the processes for which services are provided to the Authority. The contractor or firm conducting the audit shall also review the scope of the SSAE 16 Type II audit with the Authority to verify that the scope includes all the processes pertinent to the Authority. The Contractor shall permit the Authority to participate in the planning of each such audit, shall confer with the Authority as to the scope and timing of each such audit and shall accommodate the Authority's requirements and concerns to the extent reasonably practicable. Unless otherwise agreed by the Parties, such audit shall be conducted so as to result in a final audit report dated as of each December 31st during the Term and shall be provided by vendor to the Authority within thirty (30) days of such date. In all events, each report delivered by such date shall be unqualified (or, if not, shall be accompanied by a plan intended to address any identified deficiencies, which plan shall be timely implemented to resolve such deficiencies) and vendor shall respond to such report.

9) NOTICES

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

If to the Authority by hand delivery or air courier:

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

If to the Contractor:

Contractor
Attn:
800 Governors Row
Dallas, TX 75247

If to the Authority by certified mail, return receipt requested:

North Texas Tollway Authority
Attn: xxxxxxxxxxxxxxxx
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 Authority or the Contractor in the aforesaid manner shall 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 certified mail and return receipt requested, or (b) immediately upon actual delivery or refusal of delivery if transmitted by courier or overnight delivery service.

8) COMPLIANCE WITH LAWS

The Contractor and its employees and agents shall strictly comply with all laws, rules and regulations applicable to its performance of this Agreement. The Contractor warrants to the Authority that it has obtained and shall maintain all required permits, licenses, registrations, and filings, and has satisfied the payment of all fees and taxes associated with those permits, licenses, registrations and filings, in connection with its performance of this Agreement.

9) WARRANTIES

- a. The Contractor represents, warrants and covenants to the Authority that (a) it has the full right, power, capacity and legal authority to enter into and fully perform all obligations required of the Contractor under this Agreement, (b) the execution, delivery, and performance of this Agreement has been duly authorized by the Contractor 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 (c) no approval or other action by any third party is required in connection herewith.
- b. The Contractor warrants that the Services/Goods performed or provided under this Agreement shall be provided consistent with the highest prevailing professional or industry standards. In order to receive warranty remedies, the Authority agrees to report in writing any deficiencies in the Services/Goods to the Contractor within sixty (60) days of the Authority's acceptance of any portion of the Services/Goods, as provided under this Agreement. As a result of the breach of warranty, the Authority shall be entitled to the expeditious cure of any deficiencies in a manner least disruptive to the operation of the Authority's business. If the Contractor is unable to perform the work necessary to cure the deficiencies, the Authority shall be entitled to recover the fees paid to the Contractor and to recover any additional costs incurred by the Authority specific to curing the deficiency in its providing of the Services/Goods. Nothing contained in this section, nor the Authority's making of a warranty claim under this section, shall be deemed to constitute an election of remedies by the Authority for a breach by the Contractor under this Agreement, nor shall this section or the making of a claim under this section limit or otherwise impair the Authority's ability to pursue any and all remedies available under this Agreement or under applicable law for a breach by the Contractor under this Agreement.

10) COMPLIANCE WITH DIVERSITY POLICY.

The Authority is an Equal Opportunity Employer. In conducting business with or on behalf of the Authority, the Contractor shall not discriminate against any person because of race, age, color, religion, sex, disability, ancestry, national origin or place of birth. The Consultant further acknowledges the Authority's commitment to facilitate and assure the participation of disadvantaged, minority, women owned and small business enterprises ("D/M/W/SBE") in the Authority's procurement process through its Disadvantaged, Minority, Women-Owned and Small Business Enterprises (Diversity) Policy ("Diversity Policy") and agrees that it will use its best efforts to assist the Authority in the Authority's fulfillment of such commitment. It is the policy of the Authority's Board of Directors that D/M/W/SBEs have the maximum practicable opportunity to participate in the awarding of Authority contracts and related subcontracts. To do so the Authority has developed its Diversity Policy, attached within the Bid Proposal/Request and incorporated into this Agreement for all purposes as if fully set forth herein. The Authority requires that all Contractors, including certified D/M/W/SBE firms agree to submit a fully executed copy of the Commitment Agreement Form For All Subcontractors (Form 4906) to the Authority, a copy of which is attached in the Bid Proposal/Request, in relation to this Agreement. In connection with any subletting, assignment or transfer of its work or obligations hereunder, the Contractor shall 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. The Contractor will also submit a monthly report of the status of its D/M/W/SBE subconsultants. Reports will be submitted monthly with the Contractor's monthly invoices to the Authority's Business Diversity Liaison and the applicable department director in the form designated by the Business Diversity Liaison.

11) MISCELLANEOUS

- a. **AUTHORITY INDEMNIFIED.** THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE AUTHORITY 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 CONTRACTOR'S NEGLIGENT PERFORMANCE OF THE SERVICES OR PROVIDING GOODS TO BE ACCOMPLISHED UNDER THIS AGREEMENT, OR THE CONTRACTOR'S FAILURE TO PERFORM SUCH OBLIGATIONS WHETHER SUCH CLAIM OR LIABILITY IS BASED IN TORT OR STRICT LIABILITY OR CAUSED BY AN EMPLOYEE OR AGENT OF THE CONTRACTOR AGAINST THE INDEMNITEES. IN SUCH EVENT, THE CONTRACTOR ALSO SHALL INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES FROM ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, INCURRED BY THE AUTHORITY 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 CONTRACTOR SHALL, NEVERTHELESS, INDEMNIFY THE INDEMNITEES FROM AND AGAINST THE EXPENSES, CLAIMS, OR LIABILITIES RELATING TO THE PERCENTAGE OF FAULT ATTRIBUTABLE TO THE CONTRACTOR, ITS EMPLOYEES, AGENTS, CONTRACTORS, CONSULTANTS OR REPRESENTATIVES OR TO THEIR CONDUCT. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT FOR ANY REASON, INCLUDING PURSUANT TO ANY TERMINATION RIGHT PROVIDED FOR OR ALLOWED HEREUNDER.
- b. **CONFIDENTIALITY.** The Contractor acknowledges that any information that it or its employees, agents, or subcontractors obtain regarding the operation of the Authority, its products, services, policies, personnel, and any other aspect of its operation is confidential, and shall not be revealed or disclosed to any person, company, or other entity without the express written consent of the Authority. The Contractor hereby acknowledges and agrees that each of its employees, agents, or subcontractors performing work or services on behalf of the Authority shall agree to be bound by the terms of this Agreement. The Contractor hereby agrees that each staff member assigned to work on the deliverables of this Agreement by the Contractor shall sign any confidentiality and/or computer access and security document/form required by the Authority. The Contractor further agrees that any subcontractor staff utilized by the Contractor to provide Services/Goods under this Agreement must also sign the same.

- c. **PERSONNEL, EQUIPMENT, AND MATERIAL.** Except as otherwise specified, the Contractor shall furnish and maintain, at its own expense, adequate and sufficient personnel, equipment, supplies, transportation, and material, in the sole opinion of the Authority, to provide the Services/Goods when and as required, and without delay. All employees of the Contractor shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of the Contractor who, in the sole opinion of the Authority, is incompetent or by his work or conduct becomes detrimental to the providing of the Services/Goods rendered hereunder, shall, upon the request of the Authority, immediately be removed from association with work being performed for the Authority under this Agreement.
- d. **ACTS AND LIMITATIONS OF AUTHORITY.** Anything to be done under this Agreement by the Authority may be done by such persons, corporations, or firms as the Authority may designate, except as otherwise provided in this Agreement or by law. Notwithstanding anything herein to the contrary, all covenants and obligations of the Authority under this Agreement shall 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 Authority shall have any personal obligations or liability hereunder.
- e. **AUTHORITY OF CONTRACTOR.** The Contractor represents and warrants that it is duly formed 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 partners or any other party. The Contractor further represents and warrants that the execution, delivery, and performance by the Contractor of this Agreement shall neither conflict with any laws, statutes, regulations, or decisions affecting the Contractor nor breach any contractual covenants or restrictions between the Contractor and any other party.

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

- f. **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 shall 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 shall not preclude or waive its exercise of any other rights or remedies hereunder or pursuant to law or equity.
- g. **INDEPENDENT CONTRACTOR STATUS.** The Contractor shall be and act as an independent contractor under this Agreement. Under no circumstances shall this Agreement be construed as one of agency, partnership, joint venture or employment between the parties. Without limiting the foregoing, the purposes for which the Contractor and the Authority 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 Contractor acknowledges and agrees that neither it nor any of its employees, sub-consultants, or subcontractors shall be considered an

employee of the Authority for any purpose. The Contractor shall have no authority to enter into any contract binding upon the Authority, or to create any obligation on behalf of the Authority, without express authorization from the Executive Director of the Authority. Under no circumstances shall the Contractor or its employees, sub-consultants, or subcontractors, represent that it serves the Authority in any capacity other than as an independent contractor.

The Contractor 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 Contractor 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 Contractor acknowledges and agrees that any work by the Contractor to be performed at the Authority's offices or on the Authority's premises shall be conducted during normal business hours for the Authority, which are 8:00 a.m. to 5:00 p.m., Monday through Friday.

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

- h. **ASSIGNMENT; SUCCESSORS; AND BENEFICIARIES.** The Contractor has no right or authority to assign its rights and/or obligations or to delegate its duties under this Agreement without the Authority's prior written approval; such approval may be granted or withheld at the Authority's sole discretion. Any attempted assignment or delegation without such approval shall 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 shall remain with the Contractor.

Nothing in this Agreement nor in any approval subsequently provided by either party hereto shall 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.

- i. **NO CONTINGENT FEES; ETC.** The Contractor warrants that it has neither employed nor retained any company or person, other than a bona fide employee working solely for the Contractor, 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 Contractor, 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 Authority shall 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.

- j. **TEXAS FRANCHISE TAX CERTIFICATION.** The Contractor 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 Contractor's franchise tax status shall constitute grounds for cancellation of this Agreement at the sole option of the Authority.
- k. **SALES AND USE TAX.** The stated amounts of all payments to be made by the Authority to the Contractor pursuant to this Agreement are inclusive of federal, state, or other taxes, if any, however designated, levied, or based; provided, however, that the Authority 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 Authority will be provided Contractor to avoid sales and uses taxes on any purchases made on behalf of the Authority under this Agreement. Contractor shall use the TEC solely for purchases made under this contract. Contractor shall not be reimbursed for taxes assessed any purchase to which the Authority's exemption applies. All copies of the TEC shall be destroyed by Contractor upon termination of this Agreement.
- l. **CONFERENCES.** The stated amounts of all payments to be made by the Authority to the Contractor pursuant to this Agreement are inclusive of federal, state, or other taxes, if any, however designated, levied, or based; provided, however, that the Authority acknowledges and represents that it is a tax-exempt entity under Sections 151.309, et seq., of the Texas Tax Agreement.
- m. **GOVERNING LAW; VENUE.** This Agreement shall 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.
- n. **HEADINGS.** The paragraph headings set forth herein are for convenience only and do not constitute a substantive part of this Agreement
- o. **COUNTERPARTS.** This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instruments.
- p. **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 shall remain enforceable, and such invalid or unenforceable provision shall be enforced by such court to the maximum possible extent.
- q. **ENTIRE AGREEMENT; AMENDMENTS.** Upon execution 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.

[Signature Page Follows]

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

NORTH TEXAS TOLLWAY AUTHORITY,

Contractor

a regional tollway authority and a political subdivision of the State of Texas

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date of Execution:

_____/_____/20__

Date of Execution:

_____/_____/20__

ATTEST:

ATTEST:

By: _____

By: _____

_____, Secretary

_____, Secretary

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

Exhibit A-Bid Proposal/Request

Exhibit B-The Submittal

ATTACHMENT G-Insurance Requirements

**NORTH TEXAS TOLLWAY AUTHORITY
Special Provision Addressing
Insurance Requirements****Contract No.: 03387-NTT-00-CS-SM****Project: Enterprise Risk Assessment**

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. The Consultant hereby agrees that all policies shall be on ACORD Form. The Consultant acknowledges that except for Professional Liability, Claims Made Policy Forms are not acceptable. The Consultant hereby agrees that the Authority has the right to review the insurance providers, and that all companies must be acceptable to 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:

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

A "Waiver of Subrogation" in favor of the Authority shall be attached to the policies.

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

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.

The Authority shall be included as additional insured by endorsement to all policies required under the Agreement, other than Workers' Compensation Insurance policy.

Insurance for Subconsultants.

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.

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' prior written 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.