



## City of Auburn, Maine

Engineering Department

60 Court Street | Auburn, Maine 04210

[www.auburnmaine.gov](http://www.auburnmaine.gov) | 207.333.6601

### **REQUEST FOR PROPOSALS:**

#### **Traffic Signal Coordination at Various Intersections**

**Project Identification Number: WIN 18658.00**

#### **I. PROJECT OVERVIEW.**

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The City of Auburn (the "City") is seeking proposals for engineering services for the Traffic Signal Coordination at Various Intersections Project. This locally administered project is being undertaken with funding from the Federal Highway Administration, through the Maine Department of Transportation ("MaineDOT.") This project is subject to all applicable federal and state laws, regulations, policies and procedures, including but not limited to those in MaineDOT's Local Project Administration (LPA) Manual:

[www.maine.gov/mdot/lpa/manual/](http://www.maine.gov/mdot/lpa/manual/)

The City is requesting engineering support to develop the project. The primary deliverables will be a final preliminary design report (PDR). The City reserves the right to negotiate with the selected consultant to provide final design and inspection services once a contract is awarded. Proposers must provide a technical proposal and a separate, sealed price proposal. No mention of price shall be included in the technical proposal; otherwise, that proposal shall be rejected in its entirety.

**DATE OF RFP POSTING: Monday, April 1, 2019**

#### **PROPOSALS ARE TO BE RECEIVED NO LATER THAN:**

Date Due: Tuesday, April 23, 2019

Local Time: 4:30PM

#### **COMMUNICATIONS**

All communication in reference to this RFP shall be in writing and sent to the attention of:

**Name:** Tony Beaulieu, PE

**Title:** City Engineer

**Email:** [abeaulieu@auburnmaine.gov](mailto:abeaulieu@auburnmaine.gov)

*The City, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the accompanying Regulations, hereby notifies all bidders that it will affirmatively insure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.*

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## **SCOPE OF WORK- WIN 018658 SIGNAL UPGRADES**

### **A. Project Limits**

The City of Auburn in cooperation with the MaineDOT and Androscoggin Transportation Resource Center (ATRC), is proposing signalized intersection improvements at five intersection locations in Auburn, Maine.

The limits of work for this project include the following intersections:

1. Center Street @ North River Road
2. Center Street @ Lake Auburn Avenue
3. Mount Auburn Avenue @ Walmart
4. Mount Auburn Avenue @ Turner Street
5. Turner Street @ Hampshire Street

Limits of work will be restricted to the immediate intersection area required to install new traffic signal and detection equipment and fiber optic cable for signal interconnect, as well as ADA upgrades at all needed intersections. No geometric improvement to the existing or adjacent intersecting roads is proposed.

### **B. Design Scope**

- a. Center Street @ North River Road
  - Upgrade controller faceplate with ethernet and MMU
  - Fiber patch panel
  - Cisco switch or equal
  - ADA upgrades (Ramps, ped warning fields, countdown ped heads, etc.)
- b. Center Street @ Lake Auburn Avenue
  - Replace controller (Naztec TS 2 Type 2 & MMU)
  - Fiber patch panel

- Cisco switch or equal
  - ADA Upgrades (Ramps, ped warning fields, countdown ped heads, etc.)
  - Upgrade detection Traficam X-stream video
  - Run fiber aerially on Center Street from Mount Auburn Avenue South to Union Street
- c. Mount Auburn Avenue @ Walmart entrance
- Actelis ethernet over copper
  - Upgrade controller faceplate with ethernet and MMU
  - Upgrade detection Traficam X-stream video
  - Partial ADA upgrades (Ramps, ped warning fields, countdown ped heads, etc.)
- d. Mount Auburn Avenue @ Turner Street
- Actelis ethernet over copper
  - Partial ADA upgrades (Ramps, ped warning fields, countdown ped heads, etc.)
  - Wireless radio (1 @ Turner Street & 1 @ Center Street/Mount Auburn Avenue)
- e. Turner Street @ Hampshire Street
- Replace controller (Naztec TS 2 Type 2 & MMU)
  - Fiber patch panel
  - Cisco switch or equal
  - ADA Upgrades (Ramps, ped warning fields, countdown ped heads, etc.)
  - Upgrade detection Traficam X-stream video
  - Run fiber aerially on Turner Street from Hampshire Street South to Court Street

## **II. CONSULTANT RESPONSIBILITIES**

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The successful proposer shall be required to perform the services listed below:

1. Develop a project-specific final preliminary design report (PDR) using the MaineDOT Highway Program template, including but not limited to:
  - Scope of work, project background, and purpose and need;
  - Location map and summary of physical characteristics of the project location;
  - A summary of impacts- right-of-way, utilities, environmental -and identification of the required permitting;
  - Preliminary design plans (50%) and a preliminary estimate of construction cost prepared in accordance with standards in MaineDOT's Highway Design Guide, Standard Specifications (November 2014) and Standard Details (November 2014). Design plans shall include plan views, profiles, and typical and critical sections.

2. Coordinate the project with all utilities, as applicable;
3. Inform the City in writing in advance of any issues that may cause the firm's design costs to exceed the budget for the project or otherwise to cause additional expense.
4. Keep the City informed of the engineer's estimate of probable construction cost throughout the design phase, so that the City may make decisions about the project according to its funding limitations.
5. Include one public meeting and two meetings with City and MaineDOT officials.
6. Coordinate with MaineDOT Survey to generate an existing conditions plan.

### **III. PROPOSER INFORMATION**

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Proposers shall provide the following information as part of their technical proposals:

1. Firm's Qualifications: Please identify the staff the firm will assign to fulfill the contract requirements, including but not limited to the Project Manager, project engineers, technicians and any sub-contractors. Provide resumes describing the education and experience of those staff. Please identify the staff members with Local Project Administration Certification from MaineDOT.
2. Firm's Experience: Please describe the firm's experience and capabilities in providing engineering support to municipalities leading to the successful delivery of locally administered federal-aid projects. Identify projects, clients, dates and results.
3. Firm's ability to control Schedule and Costs on this project:
  - i. *Quality control.* Describe the methods the firm will use to control and monitor client costs, control quality, and ensure constructability of the design plans in accordance with MaineDOT's standards for locally administered projects.
  - ii. *Communications and schedule.* Discuss how the firm will coordinate its work on the project with the City; describe how the firm will manage its role and how it intends to stay on schedule while maintaining effective communication; and state how the firm will communicate to the City any anticipated changes in the design budget for this project, as well as any changes in the engineer's estimate of probable cost for the construction stage of the project.

4. Firm's References: Provide a list of 3 to 5 municipalities with which the firm has done business similar to that required in this solicitation in the last 5 years. Include points of contact and a brief description of each project. The City will determine which if any references are contacted. The results of any reference checks will be used to help score the proposal.
5. Contact Information: Please provide the name, address, phone number, FAX number and e-mail address of the proposer. A signature page shall be included with the technical and price proposals stating that "I certify that all of the information contained in this technical/price proposal to be true and accurate."
6. Schedule: Please include a schedule outlining project deliverables in Section II.
7. Price proposal: The price proposal shall be provided in a separately sealed envelope. NO MENTION OF PRICE SHALL BE INCLUDED IN THE TECHNICAL PROPOSAL; OTHERWISE THAT PROPOSAL SHALL BE REJECTED IN ITS ENTIRETY.

#### **IV. PACKAGING AND SUBMITTING PROPOSAL**

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1. Organization and Format. Your proposal, which should be organized as closely as possible to the format and sequence indicated in these instructions, shall be submitted as outlined below.
2. Electronic Format or Hard Copy: Electronic submissions should be by e-mail, USB drive, or CD; PDF electronic format is preferred.
3. **Hand Carried Proposals, Federal Express, or UPS:** Hand-carried proposals shall be delivered to Derek Boulanger, Purchasing Agent, located at 60 Court Street, Auburn, Maine, before the time and date for which proposals are due. **Note:** *Any proposal, portion of a proposal, or unrequested revision received after the time and date specified on the cover page of this RFP will be returned unopened.*
4. Proposals shall be delivered as follows:  
**Traffic Signal Coordination at Various Intersections Project**  
**ATTN: Derek Boulanger, Purchasing Agent**  
**60 Court Street, Auburn, ME 04210**

## V. RATING AND SELECTION PROCESS

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1. Technical proposals will be reviewed and rated using the responses to the information outlined in Sections II and III of this RFP, as follows:
  - Firm's qualifications (25 points)
  - Firm's experience (40 points)
  - Firm's ability to control schedule and costs (15 points)
  - Firm's proximity to the project (10 points)
  - Firm's references (10 points)
2. The City reserves the right to conduct interviews as necessary to determine the highest-ranked consultant.
3. This is a Qualifications-Based Selection (QBS) process. The review of technical proposals and supplemental interviews, if applicable, will be used to select the successful proposer. Once the successful proposer has been selected, an independent estimate prepared by the City will be compared against the successful proposer's price proposal, and contract negotiations will begin.
4. At the successful conclusion of the selection process, sealed cost proposals from the unsuccessful proposers will be returned unopened.

## VI. PRICE PROPOSAL

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The price proposal shall be provided in a separately sealed envelope. Prices shall be outlined for all required items, using the Consultant's Detailed Cost Proposal Form which can be found at: <http://www.maine.gov/mdot/lpa/lpadocuments/>. Each proposal will be evaluated for all technical criteria, and then costs shall be evaluated independently. The price proposal shall consist of the following:

1. Direct Labor. Please list all employees, including their classifications, who are expected to perform services on this project. Provide a breakdown of each employee's salary rate including direct labor, indirect costs, and profit. *Note: A cap of \$50 per hour for direct labor shall apply to the project.*
2. Indirect Labor (Overhead). Please provide documentation to support the indirect (overhead) costs that will be applied to this project.

3. Profit. The percentage of profit is based on criteria specific to a project, including degree of risk, relative difficulty of work and the size of the job.
4. Direct Expenses. Please provide a breakdown of anticipated direct expenses, including mileage, meals, photocopying costs, etc. Direct expenses shall be reimbursed at cost, and travel expenses shall be reimbursed in accordance with the per diem/mileage rates located at <http://www.maine.gov/osc/travel/travelinfo.htm> and [http://www.gsa.gov/portallcategory/1\\_00120](http://www.gsa.gov/portallcategory/1_00120)  
*NOTE: Markup on direct costs, including sub-consultant expenses, shall be prohibited.*
5. Subcontracts. Describe the cost or price estimates for each subcontract. There is no mark-up allowed on sub-consultant costs. Firms are encouraged to use certified Disadvantaged Business Enterprise (DBE) firms as sub-consultants. Current DBE requirements may be found at the MaineDOT website, "Certified Disadvantaged and Women Business Enterprise" directory available at:  
<http://www.maine.gov/MaineDOT/disadvantaged-business-enterprises/dbe-home.php>

## **VII. CONTRACT TERM, TYPE AND PAYMENT METHOD**

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The initial contract term shall be for a period of one year. At the City's discretion, the contract may be extended as appropriate. The contract type used for this project shall be a stand alone project contract, and the method of payment shall be fixed burdened hourly rate. The following terms shall also apply:

- The contract resulting from this RFP will be governed by the terms and conditions found in Appendix C to this RFP, "Project Contract".
- This project will be funded with money from the Federal Highway Administration (FHWA). The Federal Contracting Provisions for this funding source are attached hereto as Appendix C.

## **VIII. GENERAL INFORMATION**

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1. This RFP does not commit the City of Auburn to pay any of the costs you incur in submitting your proposal, preparing the proposal, or in procuring or sub-contracting for services or supplies related to the proposal.

2. Requests for Clarification/RFP Amendments. During the proposal preparation period, all requests for clarification or for additional information shall be submitted in writing by e-mail: [abeaulieu@auburnmaine.gov](mailto:abeaulieu@auburnmaine.gov); clarification to RFP for WIN 18658.00; to the individual referenced by "Attention" on the cover page of this RFP no later than Thursday, April 18, 2019. Late requests for clarification will not be accepted. When appropriate, responses to requests, as well as any changes initiated by the City, will be provided to all prospective proposers in writing as amendments to the RFP. It will be the Proposer's responsibility to check the referenced website for responses to the Requests for Clarifications and/or RFP amendments.

## **IX. DEBARMENT CERTIFICATION**

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By submitting to this RFP, I certify to the best of my knowledge and belief that the aforementioned organization, its principals, and any sub-consultants named in this proposal:

- a. Are not debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.
- b. Have not within three (3) years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:
  - i. fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.
  - ii. violating federal or state antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - iii. are not currently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
  - iv. have not within a three (3) year period preceding this proposal had one or more federal, state or local government transactions terminated for cause or default.

Failure to provide this certification may result in the disqualification of the Bidder's proposal, at the discretion of the City.

## APPENDIX A

### CONSULTANT'S COST PROPOSAL FORM

**Consultant Name:**  
**Vendor/Customer**  
**No.:**  
**Project**  
**Title/Location:**  
  
**MaineDOT WIN:**  
**Service Area or**  
**Phase of Work:**

**Orig. Date:**  
**Revised**  
**Date:**  
**Contact**  
**Name:**  
**Contact e-**  
**mail address:**

<b>Consultant Positions =&gt;</b>		Classifi cation and/or Employ ee Name	TO TAL									
#	Task Descriptions	Hours	Ho urs									
1												0.0 0
2												0.0 0
3												0.0 0
4												0.0 0
5												0.0 0
6												0.0 0
7												0.0 0
8												0.0 0
9												0.0 0
10												0.0 0
11												0.0 0
12												0.0 0
13												0.0 0
14												0.0 0
15												0.0 0

1											0.0
6											0
1											0.0
7											0
1											0.0
8											0
1											0.0
9											0
2											0.0
0											0
2											0.0
1											0

<b>TOTAL HOURS</b>	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>HOURLY RATE</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
<b>DIRECT LABOR TOTAL</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

<b>DIRECT EXPENSES</b>											
Subconsultant 1-List Name	\$0.00	NOTE: This proposal form must be accompanied by: (a) Description of Services; (b) Scope of Work; (c) DBE form; (d) Appendix A-1; (e) Certified Payroll; (f) Insurance Certificates; and (g) Subconsultant Proposal.									
Subconsultant 2-List Name	\$0.00										
Mileage (currently \$.44 per mile)	\$0.00										
Postage	\$0.00										
Printing	\$0.00										
Other	\$0.00										
Other	\$0.00										
<b>TOTAL DIRECT EXPENSES =</b>	<b>\$0.00</b>										

Overhead %	0.00 %	\$0.00
Profit/Fee %	0.00 %	\$0.00
<b>Subtotal =</b>		<b>\$0.00</b>
<b>Total Direct Expenses =</b>		<b>\$0.00</b>

**Total Proposed Cost      \$0.00**

## APPENDIX B

### Proposer's General Information Form

#### 1. CONTACT INFORMATION\*:

a. Firm Name: __ __	b. Office Phone No.: __ __	c. Cell Phone No.: __ __
d. Firm Contact First & Last Name: OMr. OMs. _____	e. Title: __ __	f. Firm Contact E-mail Address : __ __
g. Firm's Web Address: __ __	h. Name of Firm's President/Managing Officer: __ __	

#### 2. CORPORATE INFORMATION\*:

a. Type (select one): <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Minority Owned <input type="checkbox"/> Woman Owned <input type="checkbox"/> Small Business <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Corporation (State of origin) : __ <input type="checkbox"/> Other: _____	b. Firm's DUNS Number: __ __  c. Firm's Federal EIN: __ __  d. Firm's State of Maine Vendor/Customer No.: DVC_ORDVS__	e. Does your firm have an Audited Overhead Report dated within the last two (2) years? <input type="checkbox"/> Yes <input type="checkbox"/> No  What is the date of your most recent Audited Overhead Report? _____
f. Is your firm a Disadvantaged Business Enterprise (DBE)? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, are you certified as such by MaineDOT's Civil Rights Office? <input type="checkbox"/> Yes <input type="checkbox"/> No		
h. Is your firm's Corporate Headquarters located in Maine? <input type="checkbox"/> Yes <input type="checkbox"/> No What is the address of your Corporate Headquarters: _____		

#### 3. AFFIRMATIVE ACTION\*:

a. Does your firm have a current Equal Employment Opportunity policy and plan? <input type="checkbox"/> Yes <input type="checkbox"/> No	b. Is your firm aware of Equal Employment Opportunity (EEO) responsibilities? <input type="checkbox"/> Yes <input type="checkbox"/> No	c. Is your firm aware of our firm's goals for utilization of DBE firms? <input type="checkbox"/> Yes <input type="checkbox"/> No
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#### 4. DEBARMENT, SUSPENSION, INELIGIBILITY, OR EXCLUSION\*:

<p>By submitting to this RFP, I certify to the best of my knowledge and belief that the aforementioned organization, its principals, and any subcontractors named in this proposal:</p> <ol style="list-style-type: none"> <li>a. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.</li> <li>b. Have not within three years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:             <ol style="list-style-type: none"> <li>i. fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.</li> <li>ii. violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;</li> <li>iii. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and</li> <li>iv. have not within a three (3) year period preceding this proposal had one or more federal, state or local government transactions terminated for cause or default.</li> </ol> </li> </ol>
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## 5. CERTIFICATION\*:

By submittal of this form I certify that this firm has not been debarred, suspended, declared ineligible or voluntarily excluded from contracts by the Federal Government or any State Agency within the last 3 years?

Check Here to Agree

By submittal of this form, I certify I have reviewed my submittal package to ensure that all of the required documents are included in my submittal.

Check Here to Agree

By submittal of this form, I certify that the foregoing information is true and accurate and that I am an Authorized Signatory Officer of the Firm.

Check Here to Agree

By submittal of this form, I certify that the typed name (a) is intended to have the same force as a manual signature, (b) is unique to myself, (c) is capable of verification, (d) is under the sole control of myself, (e) is linked to data in such a manner that it is invalidated if the data are changed. (10 M.R.S.A. §9501 et seq.)

Check Here to Agree

a. Typed Name of Submitting Authorized Officer:	b. Title:	c. Date:
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***SAMPLE***  
**APPENDIX C**

**PROJECT CONTRACT**

Project Location: \_\_\_\_\_  
State W.I.N.: \_\_\_\_\_

Contract Maximum Amount: \_\_\_\_\_  
Contract Begin Date: \_\_\_\_\_  
Contract Expiration Date: \_\_\_\_\_

This Project Contract (hereinafter referred to as "Contract") is entered into by and between the **MUNICIPALITY OF** \_\_\_\_\_, (hereinafter "the **MUNICIPALITY**"), a municipal corporation with its principal administrative offices located at \_\_\_\_\_ and with a mailing address of \_\_\_\_\_, and \_\_\_\_\_, a corporation or other legal entity (hereinafter "Consultant"), with its principal place of business located at \_\_\_\_\_.

This Contract contains the following attachments:

- Appendix A – Method of Payment and Price, Overhead Rate
- Appendix B – Consultant's Proposal – Detailed Scope of Work
- Appendix C – DBE/WBE Utilization Plan
- Appendix D – Notice of Compliance with Title VI of the Civil Rights Act of 1964
- Appendix E – Form FHWA-1273 - Required Contract Provisions

This Contract is subject to compliance with Disadvantaged Business Enterprise (DBE) Program requirements for all federally-funded contracts.

The Municipality and the Consultant hereby agree as follows:

**A. The Scope of Work.** The Consultant agrees to complete all work as detailed in this contract.

The Consultant shall be responsible for furnishing all supervision, labor, equipment, tools supplies, permanent materials and temporary materials required to perform all work pursuant to this contract and;

The Municipality shall have the right to alter the nature and extent of the work as provided in this Contract; payment shall be made as provided in this Contract.

**B. Contract.** Because this project is being administered by the Municipality on behalf of the Maine Department of Transportation ("the MaineDOT"), the Consultant agrees to be bound by the terms and requirements of the MaineDOT's Consultant General Conditions, dated **January 1, 2009**, which are hereby incorporated by reference.

**C. Time.** This Contract shall become effective on the date last signed and that date shall constitute the earliest date for which work may commence.

The Consultant agrees to complete all project deliverables as outlined in this Contract on or before \_\_\_\_\_.

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The **Expiration Date** of this Contract is \_\_\_\_\_, at which time work cannot continue under this contract without a modification in place to extend the expiration date.

**D. Team Members.** Please list names of the Project Manager, Chief Designer, other key personnel, and primary sub-consultants you are using for this Contract.

Project Manager: \_\_\_\_\_

Chief Designer: \_\_\_\_\_

Other Key Personnel: \_\_\_\_\_

Subconsultant 1: \_\_\_\_\_

**E. Representations.** By signing below, the Consultant hereby represents that to the best of the Consultant's knowledge and belief:

1. All of the statements, representations, covenants, and/or certifications required or set forth in the Contract documents are complete and accurate as of the date of this Contract.
2. The Consultant knows of no legal, contractual, or financial impediment to entering into this Contract.
3. The person signing below is legally authorized by the Consultant to sign this Contract on behalf of the Consultant and to legally bind the Consultant to the terms of this Contract.
4. Work shall not commence before the Municipality has fully executed this Contract and given the Consultant authorization to proceed.

**F. Agreement.** The undersigned – having carefully examined the site of work, scope of work and other conditions including insurance requirements for transportation project-related services – agrees to supply all the professional services, materials, tools, equipment and labor to complete the whole of the work in strict accordance with the terms and conditions of this Contract at the prices agreed to in Appendix A (attached).

Consultant agrees to perform the work required at the prices specified above in accordance with the terms of this Contract and to provide the appropriate insurance.

Consultant also agrees:

First: That insurance (and a current Certificate of Insurance) as specified in this Contract will be provided before any work begins under this Contract.

Second: To begin the work on the date specified herein, and to complete the work within the time limits herein in accordance with the terms and conditions of this Contract.

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IN WITNESS WHEREOF, the Consultant, for itself, its successors and assigns, hereby execute two (2) originals of this Contract and thereby binds itself to all covenants, terms, and obligations contained in the Contract Documents.

**CONSULTANT NAME HERE**

**MUNICIPALITY OF**

By: \_\_\_\_\_  
Print Name:

By: \_\_\_\_\_  
Print Name:

\_\_\_\_\_  
(Date Signed)

\_\_\_\_\_  
(Date Signed)

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**APPENDIX B TO PROJECT CONTRACT:  
SCOPE OF WORK**

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**APPENDIX C TO A PROJECT CONTRACT**

**MaineDOT CONSULTANT'S DBE/SUBCONSULTANT  
PROPOSED UTILIZATION FORM**

**Must be provided by the Consultant as an attachment to New Technical Proposals**

Consultant Firm: \_\_\_\_\_ Telephone: \_\_\_\_\_ Ext \_\_\_\_\_

Contact Person: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

TOTAL CONTRACT/MODIFICATION AMOUNT: \$ \_\_\_\_\_ DATE OF EXECUTION: \_\_\_\_\_  
(For Department Use Only)

FEDERAL PROJECT PIN # \_\_\_\_\_ PROJECT LOCATION: \_\_\_\_\_

TOTAL ANTICIPATED DBE \_\_\_\_\_ % PARTICIPATION FOR THIS CONTRACT

W B E •	D B E •	Non DBE	Firm Name	Description of Work	Anticipated \$ Value
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
<b>Subcontractor Total &gt;</b>					
<b>DBE Total &gt;</b>					

*\*Note: this information is used to track and report anticipated db e participation in all federally funded MaineDOT contracts. The anticipated db e amount is voluntary and will not become a part of the contractual terms.*

(MAINEDOT INTERNAL USE ONLY)

Form received: \_\_\_/\_\_\_/\_\_\_ Verified by: \_\_\_\_\_  
Civil Rights Office Representative

**APPENDIX D TO PROJECT CONTRACT:  
COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

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During the performance of a General Consultant Agreement and/or Project Contract, the Consultant, for itself its assignees and successors in interest (hereinafter referred to as the "Consultant") agree as follows:

- a. Compliance with Regulations: The Consultant shall comply with the Regulations of the U.S. Department of Transportation relative to nondiscrimination in federally assisted programs of the U.S. Department of Transportation (Title 49, Code of Federal Regulations, Part 21 through Appendix H and Title 23, Code of Federal Regulations 710.405 (b), hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- b. Nondiscrimination: The Consultant, with regard to the work performed by it after award and prior to the completion of the contract work, shall not discriminate on the ground of race, color or national origin in the selection and retention of Sub-consultants, including procurements of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- c. Solicitations for Subcontract, Including Procurements of Material and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurement of services, material or equipment, each potential Sub-consultant or supplier shall be notified by the Consultant of the Consultants obligations under this contract and the regulations relative to nondiscrimination on the ground of race, color, or national origin.
- d. Information and Reports: The Consultant shall provide all information and reports required by the regulations, or orders and instructions issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the state highway agency or the Federal Highway Administration to be pertinent to ascertain compliance with such regulations, orders and instructions.

Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the state highway agency or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

- e. Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the state highway agency shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:
  - i. withholding of payments to the Consultant until the Consultant complies and/or
  - ii. cancellation, termination or suspension of the contract, in whole or in part.

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f. Incorporation of Provisions: The Consultant shall include the provisions of paragraph (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, order or instructions issued pursuant thereto. The Consultant shall take action with respect to any subcontract or procurement as the state highway agency or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Consultant becomes involved in or is threatened with, litigation with a Sub-consultant or supplier as a result of such direction, the Consultant may request the state to enter into such litigation to protect the interests of the state; and in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

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## APPENDIX E TO PROJECT CONTRACT

### FHWA-1273: Required Contract Provisions for Federal-Aid Non-Construction Contracts

#### GENERAL

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.
2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.
3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

#### NONDISCRIMINATION

(Applicable to all Federal-aid contracts and related subcontracts of \$10,000 or more.)

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:
    - a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.
    - b. The contractor will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."
  2. **EEO Officer:** The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.
  3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially
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involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

- a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
  - b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
  - c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.
  - d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
  - e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.
4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.
- a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.
  - b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)
  - c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.
5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:
- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
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- b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

6. **Training and Promotion:**

- a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.
- c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
- d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

7. **Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

- a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
  - b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.
  - c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the SHA and shall set forth what efforts have been made to obtain such information.
  - d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall
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be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.

8. **Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.
  - a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.
  - b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.
  - c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.
9. **Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.
  - a. The records kept by the contractor shall document the following:
    1. The number of minority and non-minority group members and women employed in each work classification on the project;
    2. The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;
    3. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and
    4. The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.
  - b. The contractors will submit an annual report to the SHA each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

## **NONSEGREGATED FACILITIES**

(Applicable to all Federal-aid contracts and related subcontracts of \$10,000 or more.)

- a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its
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control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

- b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).
- c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

### **SAFETY: ACCIDENT PREVENTION**

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).
3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

### **FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

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## **NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS**

18 U.S.C. 1020 reads as follows:

*"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or*

*Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or*

*Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;*

*Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."*

### **IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

(Applicable to all Federal-aid contracts and to all related subcontracts of \$100,000 or more.)

By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*, as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*, as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
  2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.
  3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
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4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

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#### **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

##### **a. Instructions for Certification - Primary Covered Transactions:**

(Applicable to all Federal-aid contracts - 49 CFR 29)

- i. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
  - ii. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
  - iii. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
  - iv. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
  - v. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.
  - vi. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
  - vii. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
  - viii. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily
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excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

- ix. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- x. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

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### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-- Primary Covered Transactions**

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and
  - d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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### **Instructions for Certification - Lower Tier Covered Transactions:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

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- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion --  
Lower Tier Covered Transactions:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
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2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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#### **CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
    - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
    - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
  2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
  3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.
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