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**REQUEST FOR QUALIFICATIONS TO PROVIDE
Project Management & Engineering Services
For the Marquette Greenway Project (MGP)
(RFQ 22-05.03)**

January 10, 2023

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1. PROCUREMENT OVERVIEW

1.1 Introduction & Background

This Request for Qualifications (RFQ) solicits a proposal for statement of qualifications for consultant services to provide project management and engineering services as necessary for the completion of the Marquette Greenway Project (MGP) throughout Northwestern Indiana & Southwest Michigan.

The Northwestern Indiana Regional Planning Commission (NIRPC) was recently awarded by the USDOT a grant through the Rebuilding America Infrastructure with Sustainability & Equity (RAISE) discretionary grant program to complete sections of this trail. This is a non-motorized, multi-use trail. NIRPC is the sponsor for all aspects of design and construction of this project. NIRPC is the Council of Governments (COG) and the Metropolitan Planning Organization (MPO) for three counties in Northwestern Indiana (NWI).

NIRPC is committed to helping our member municipalities make great places happen! One of those visions is an ambitious project to finish a regional, multi-use trail which will span 60-miles in length along the “South Shore” region of Lake Michigan from Calumet Park in Chicago, Illinois, eastward through the heart of Northwest Indiana, and into downtown New Buffalo, Michigan. This multi-use trail is called the Marquette Greenway. Detailed information can be found at <https://nirpc.org/raise-grant/>. This information is preliminary, and some sections have changed, but this link is a good overview of the entire corridor and portfolio of projects.

Residents of the South Shore region have long desired to have an uninterrupted trail connecting the three states of Illinois, Indiana, and Michigan, providing access to a wide variety of destinations along the lakefront. The enormous work of planning this corridor has been a collaborative effort for over a decade. In 2005, the Greenway became a focal point in the landmark Marquette Plan: Indiana’s Lakeshore Reinvestment Strategy document and has carried forward as a top priority today. The route was further identified and promoted with the Marquette Greenway Poster Plan in 2009, and again identified as a priority in the Marquette Action Plan in 2017.

The Marquette Greenway will represent an unparalleled multi-use trail experience, traversing through a geographically and socio-economically diverse landscape. It will connect a population of 192,600 residents within a mile and a half of the trail (including 60,000 who are employed within the corridor), to recreational facilities, scenic landscapes, and economic opportunities.

However, connections to the Marquette Greenway are not simply local in nature. Connections to the trail are extensive and cross multiple state boundaries, linking with the 530-mile Grand Illinois Trail from the west; the Burnham Greenway, Erie-Lackawanna Trail, and Dunes-Kankakee Trail from the south; and the Harbor Country Trail network from the east. Taken together, these additional connections link to a population base of well over nine million people.

Today, thirty-four (34) miles of the Marquette Greenway has either already been built or has received funding. The remaining sections – approximately 10.5 miles – is the subject of the NIRPC’s application to the Federal Highway Administration (FHWA) for the RAISE grant. This RAISE grant award will complete these remaining miles.

The entire corridor presented here is sponsored by NIRPC and Southwest Michigan Planning Commission (SWRPC). NIRPC is the overall sponsor and any references to the sponsor will be towards NIRPC only.

With the award of federal funds for the RAISE grant, there are some constraints or opportunities:

- All funds must be obligated by June 30, 2024 and expended by June 30, 2029.
- NIRPC is the direct recipient of these funds. The Indiana Department of Transportation (INDOT) is not a partner or involved in this project in any other way. This means a close working relationship between all parties, namely NIRPC and FHWA (Indiana and Michigan Divisions). Documents and processes will need to be developed and approved by all parties.
- Since the timetable is compressed, this project does not need to follow the traditional review timelines that other projects in the INDOT/LPA process. All timelines will be discussed and need to be approved by FHWA.

1.2 Purpose of the Request for Qualifications (RFQ)

The Planning Department within NIRPC currently serves as oversight for all FHWA/INDOT funded projects in NIRPC's Transportation Improvement Plan (TIP) where NIRPC serves as the approval agency for the grant funds and the LPAs manage all aspects of the design, construction, and administration of the improvement projects. Due to NIRPC being the direct recipient of the RAISE grant and due to staff shortages and the inability to utilize the services of INDOT on this project, NIRPC foresees the need for supplemental project management and engineering services to complete the Marquette Greenways Project (MGP). The selected consultant shall have the ability to provide NIRPC with a project manager, office engineer or design engineer/technician that can manage a Project Development Process and Schedule that includes but is not limited to reviewing : Preliminary Design & Engineering (PE), the environmental document and process, design-build solicitations, right-of-way acquisitions, utility & railroad plans & agreements, project plans, specifications and estimates (PS&E). NIRPC expects the consultant to have extensive experience managing local agency type projects. The MGP will be constructed with several funding sources including Federal, State, and local funds. It is imperative that the consultant is familiar and experienced with State and Federal administrative requirements and procedures.

2. INSTRUCTIONS TO PROPOSERS

2.1 Inquiries

Any questions related to this solicitation shall be directed to the contact whose name appears herein. The Proposer shall limit contact or ask questions of the department or agency for which the requirement is being procured. Questions shall be submitted in writing by e-mail. Any correspondence related to a solicitation should refer to the appropriate Solicitation number, page and paragraph number. Oral interpretations or clarifications will be without legal effect. Only questions answered by formal written solicitation amendment will be binding. All questions and answers will be shared with the e-mail list and posted on the Commission's website. NIRPC staff will not respond to verbal questions inquiries and/or requests for information (via telephone or other forms of oral communication).

Proposers will be required to have knowledge of and adhere to all pertinent federal, state and local requirements, and use FHWA and INDOT LPA standards & processes.

The proposal should be succinct. The submitted material should focus on technical content that demonstrates experience and understanding in the project management effort. Elaborate or glossy proposals are neither expected nor desired.

It is the interested parties' responsibility to contact the individual whose name appears herein to be added to the e-mail list. If the interested party is not on the e-mail list, they will not be sent any addendums, questions, answers, etc. This can be done by submitting an email to NIRPC's Procurement Manager Lisa Todd (ltodd@nirpc.org), with the subject line: **Email List Re: RFQ 22-05.03: Project Management & Engineering Services - MGTP**

All questions and clarifications relating to the RFQ are due by 12:00 p.m. CST on January 18, 2023, with subject line: **Questions Re: RFQ 22-05.03: Project Management & Engineering Services - MGTP**

Proposers should submit an electronic copy (Adobe PDF format) of less than 20 MB of their qualification by email to Lisa Todd at the address below in 2.3. NIRPC is not responsible for receipt of electronic files too large to be attached to an email.

2.2 Solicitation Schedule

| | |
|--------------------------------------|------------------------------------|
| RFQ Release Date: | January 10, 2023 |
| Deadline for RFQ Inquiries: | January 18, 2023, by 12:00 PM (CT) |
| Deadline for RFQ Q&A Response: | January 23, 2023 |
| Deadline for RFQ Submittals: | January 31, 2023, by 12:00 PM (CT) |
| RFQ Virtual Interviews if Necessary: | February 9 & 10, 2023 |
| RFQ Short Listed Teams Named: | February 13, 2023 |
| RFP to Short Listed Teams: | February 14, 2023 |
| Deadline for RFP Inquiries: | February 21, 2023 |
| Deadline for RFP Q&A Response: | February 24, 2023 |
| Deadline for RFP Submittals: | February 28, 2023 |
| RFP Virtual Interviews if Necessary: | March 9 & 10, 2023 |

Award Date, On or Before: March 14, 2023
NIRPC Commission Approval: March 16, 2023
Tentative Contract Start Date: March 31, 2023

2.3 Contact

All inquiries, statements of qualifications, and proposals shall be addressed to:

Lisa Todd
Procurement Manager
Northwestern Indiana Regional Planning Commission
6100 Southport Road
Portage IN 46368
P: 219-254-2527
ltodd@nirpc.org

2.4 Instructions for Statement of Qualifications & Proposals

Proposer(s) must include the following information in the order outlined below in their submission of qualifications:

2.4.1 Transmittal Letter

Maximum of two (2) pages.

Describing the firm's interest in the project and the firm's understanding of the project. The cover letter must be signed by an individual authorized to commit firm resources to the project. The cover letter must clearly identify that the proposer is submitting their qualifications to provide **Project Management & Engineering Services – MGP**.

2.4.2 Proposer and Team Structure and Experience

Maximum of six (6) pages.

Describe the qualifications, role of each team member and percentage of time the team member will be committed for the contract, list:

- a) Proposer (Prime) – Provide the firm name, address of the responsible office from which the work will be performed and the name and email address of the contact person authorized to negotiate for all associated work.
- b) Equity Members; Major participants & other Team Members – For all other proposed sub-consultants, provide the name, address of the office doing the work, DBE/MBE/WBE/IVOSB status, percentage of the work anticipated by both the prime and sub-consultants and the capacity of each team member.
- c) Proposer & Team Structure - Include an organizational chart showing the structure/ responsibilities of the team.
- d) Relevant Experience – Please include any relevant experience of the team members/ organizations.
- e) Organization and Key Personnel Resume – Describe the proposed project team and organizational structure, including designation of individuals who will be responsible for the performance and delivery of each task component and deliverable. Include title,

education, current responsibilities and experience of key staff that the proposer will assign to perform under the contract.

- f) Financial Information – Please share the Prime’s financial stability to complete the project as required.
- g) Please include past state Department of Transportation (DOT) performance scores for the (prime) proposer (or explain their status with that state’s DOT).

2.4.3 Proposer’s Approach to the Project and References

Maximum of three (3) pages.

Provide a description of your approach to the project, addressing the team’s technical approach, understanding of the project, services needed, cost containment practices, innovative ideas and other relevant information concerning your team qualifications for the project. Give examples of relevant, successful projects that have been completed in the last five (5) years. Including the date the project was completed. Also include client contact information for reference checks, including the name of responsible individual, phone number and email.

2.4.4 Additional Materials

- a) Affirmative Action Requirements – The proposer must identify the sub-consultant(s) that are DBE in which are part of the team and their role. While there is no DBE goal on this project, NIRPC is following 49 CFR part 26 per section 18.3 of the grant agreement.
- b) Conflict of Interest – Consultants responding to this RFQ shall notify NIRPC in writing of any conflict or potential conflict of interest, according to the Conflict-of-Interest Policy in the appendix. Consultants shall fully explain the conflict or potential conflict, provide suggestions or protocol to remedy the conflict, and reference all applicable items.
- c) Current Business Status – Please see 6.1 under Required Certifications
- d) Pre-qualification – NIRPC will review the INDOT Consultant Prequalification website or other State DOT website(s) to determine if a firm is qualified to do the work it proposes.
- e) Certifications – Certifications 6.3-6.8 will be asked for during the RFP and contract negotiations.

2.4.5 Work Plan (Project Management & Engineering Services)

Maximum of five (5) pages.

- a) The proposer is required to know the appropriate federal regulations listed in Exhibit A of the grant agreement under the FY 2021 RAISE Transportation Grants Program document.
- b) The person(s) in the firm will be managing the entire project including developing forms, work processes & schedules for approvals for NIRPC. Attention will be paid to the firm’s ability, capacity, and qualifications to review and approve all documents in preparations for letting. Give examples of persons and the firm’s ability to deliver and administer civil projects. Highlight areas where the firm was able to bring value to the owner’s project.
- c) The winning consultant firm will produce a quarterly cost, schedule and status report and be available to discuss the report at an agreeable date & time. The report shall follow the requirements laid out in the General Terms and Conditions under the Fiscal Year 2021 Rebuilding America Infrastructure with Sustainability & Equity (RAISE) Discretionary Grant Program: FHWA Projects, or any superseded document. The report will contain the items as shown in Performance Measurement Table as provided by

USDOT. In addition, the firm shall include detailed description and, where appropriate, drawings of items funded. including the following items:

- a.* Current Date
 - b.* Project Overall Status
 - c.* Project Significant Activities & Issues
 - d.* Action Items/Outstanding Issues
 - e.* Project Scope Overview
 - f.* Project Schedule
 - g.* Project Costs
- d) The person(s) within the firm will provide engineering review of all documents for submission to NIRPC and FHWA, including design, NEPA documentation, Right-of-Way (ROW) certification, utility & railroad certification.
 - e) This role is also similar to the role of consultant reviewer as viewed by INDOT. Therefore, the firm must be prequalified (and listed on the INDOT List of Prequalified Consultant Firms) with the prequalifications listed in 4.1 below.
 - f) The reviewer shall have experience working in the State of Michigan and be familiar with MDOT policies procedures. The consultant team will need to be licensed firm in Michigan and have engineers that are also licensed in Michigan.
 - g) The proposed project manager/engineer will represent NIRPC in the answering of all technical questions. The firm will also coordinate with the Sponsor on all other questions and comments.
 - h) The proposer shall indicate their local experience and address of local offices, if any.
 - i) The proposer will maintain all documents and forms throughout the project's life cycle. Upon completion of the project and the project's final acceptance by NIRPC and FHWA, the proposer will turn over all documents to NIRPC for final review

2.4.6 References

Provide at least three (3) references who can comment on the past performance of the firm(s) and key staff on projects comparable to the proposed work completed within the last five years. Please include brief descriptions, contact names, and telephone numbers for any related projects that you wish to use as references.

2.4.7 Project Schedule

All RAISE funds must be obligated by June 30, 2024. Proposal should describe the proposer's capacity to take on the role of PM for the Marquette Greenway Projects and meet the June 30, 2024 obligation deadline.

2.4.8 DBE Goals

- i. There are no DBE goals as set by the sponsor. While there is no DBE goal on this project, NIRPC is following 49 CFR part 26 per section 18.3 of the grant agreement.
- ii. A description of work to be performed by the prime consultant and each sub-consultants.

2.4.9 Proposal Scoring & Evaluation

All submitted proposal(s) will be subject to scoring and evaluation by a review committee appointed by the sponsor. Interested Proposers shall be deemed responsive if they conform to the essential requirements of this document which includes the specifications, terms, and conditions to be met.

Where there are apparent deficiencies, ambiguities and uncertainties present in the Proposal(s), NIRPC may conduct interviews, with Qualified Proposers to choose the top three qualified firms to issue Request for Proposals (RFP) to. The following scoring rubric will be used for scoring all proposals.

| Evaluation Criteria Rated by Scorers - RFQ for Project Management & Engineering Services for Marquette Greenway | | | | |
|---|---|-------|--------|----------------|
| Category | Scoring Criteria | Score | Weight | Weighted Score |
| Capacity of Team to do the Work | Evaluation of the team personnel and equipment to perform the project on time | | | |
| | Availability of more than adequate capacity that results in added value to NIRPC. | 1 | 15 | |
| | Adequate capacity to meet the schedule | 0 | | |
| | Insufficient available capacity to meet the schedule. | -3 | | |
| Team's Demonstrated Qualifications | Technical expertise: Unique Resources that yield a relevant added value or efficiency to the deliverable. This includes pre-qualifications or other statement of qualifications from a state Department of Transportation. | | | |
| | Demonstrated outstanding expertise and resources identified for required services for value added benefit. | 2 | 15 | |
| | Demonstrated high level of expertise and resources identified for required services for value added benefit. | 1 | | |
| | Expertise and resources at appropriate level. | 0 | | |
| | Insufficient expertise and/or resources. | -3 | | |
| Project Manager's Experience | Rating or predicted ability to manage the project, based on: experience in size, complexity, type, subs, documentation skills. Includes the Project Manager's experience with RAISE or other FHWA competitive grants and the quarterly and annual reporting requirements. | | | |
| | Demonstrated outstanding experience in similar type and complexity. | 2 | 20 | |
| | Demonstrated high level of experience in similar type and complexity. | 1 | | |
| | Experience in similar type and complexity shown in resume. | 0 | | |
| | Experience in different type or lower experience. | -1 | | |
| | Insufficient experience. | -3 | | |
| Approach to the Project | Appraisal of essential project understanding and approach in relation to service/product efficiency (cost, time) and effectiveness (quality). | | | |
| | Demonstrates an exceptional level of understanding of the project (intent, actions, challenges, etc.) and outstanding project approach. | 2 | 10 | |
| | Demonstrates a strong understanding of the activities required for this project and a solid project approach. | 1 | | |
| | Demonstrates a satisfactory understanding of the project an adequate project approach of activities required for similar projects. | 0 | | |
| | Did not adequately demonstrate sufficient project understanding or approach. | -3 | | |
| Past Record of Performance | Will be requested from INDOT or other state DOT | | | |

2.4.10 Additional Materials and Executed Certifications

All RFQ proposers shall complete and submit Current Business Status 6.1. If a proposer does not wish to participate in this solicitation, please complete and submit the No Proposal Reply Form 6.2. Short Listed Proposer(s) will be required to complete and submit Certifications 6.3-6.8 as part of the RFP and contract negotiations.

2.4.11 Proposals

Submit by email an electronic (Adobe PDF format) copy of the Proposer's Statement of Qualifications, with the subject line: **Response - RFQ 22-05.03: Project Management & Engineering Services - MGTP.**

2.4.12 Conflict of Interest

Proposers to this RFQ shall complete the Conflict of Interest form found in Exhibit B. Proposers shall fully explain the conflict or potential conflict, provide suggestions or protocol to remedy the conflict.

2.5 Deadlines

All RFQ Proposal(s) must be received at the Commission by **January 31, 2023, at 12:00 PM CT.** No Proposal(s) will be accepted after this time and date. The Commission reserves the right to reject any or all Proposal(s) received.

3. GENERAL CONDITIONS

3.1 Definitions

ACM: Accelerated Construction Method

Affiliate: Any member of the proposer's team, whether the member is employed by the Prime, equity member or other sub-consultant.

Commission: The Commission may refer to NIRPC, the governing body of NIRPC, the Executive Board or the full governing body.

Contract: Refers to an agreement between the Proposer and NIRPC in which a set of terms and conditions and a scope of work are agreed upon after evaluations have determined a competitive Proposer.

DOT: Department of Transportation

INDOT: Indiana Department of Transportation

MDOT: Michigan Department of Transportation

NIRPC: Northwestern Indiana Regional Planning Commission

Proposal(s): Proposal(s) may refer to a quote, proposal, response, sealed bid, or set of qualifications that is to be submitted by the Proposer.

Proposer: Proposer shall refer to a firm, agent, company, consultant, or person or team of firms submitting a Proposal(s) or Qualifications to the Commission.

Sponsor: NIRPC

SWMPC: Southwest Michigan Planning Commission

Solicitation: Refers to this document

3.2 Determining Short Listed Submitters

NIRPC reserves the right, in its sole discretion, to cancel this RFQ, issue a new request for qualifications, reject any and all submissions, seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to this RFQ, seek and receive clarifications and waive any deficiencies, irregularities or technicalities in considering and evaluating the RFQ, to postpone the closing/opening date for its own convenience, and to reject any or all Qualifier(s) for any reason. Incomplete submissions will not be reviewed or considered.

3.3 Proposer Responsibility

Proposer shall have the responsibility of satisfying all parts of this solicitation. It is the desire of NIRPC to procure services of the finest quality. No advantage shall be taken by the Proposer in the omission of any part of detail that would be necessary to fully satisfy all work required in this solicitation.

3.4 Familiarization of Scope of Work

Before signing a contract, each Proposer shall familiarize itself with the Scope of Work, laws, regulations, and other factors affecting performance of work. It shall carefully correlate its observations with the requirements of the solicitation and contract and otherwise satisfy itself as to the expense and difficulties attending the performance of the work. The signing of a Contract will constitute a representation of compliance by the Proposer. There will be no subsequent financial adjustment, other than that provided by the Contract, for lack of such familiarization.

3.5 Responsive Proposal(s)

NIRPC shall award contracts only to responsible/responsive Proposers who possess the potential to perform successfully under the terms and conditions of the Request for Qualification. The Proposer shall affirmatively demonstrate its responsibility and, when necessary, the responsibility of any proposed Sub-Contractors.

If information obtained by NIRPC clearly indicates that the Proposer is not responsive and NIRPC has doubts about the productive capability or financial strength of a Proposer that cannot be resolved affirmatively, a determination that the Proposer is non-responsive shall be rendered.

3.6 Eligibility

Proposers must not be on the U.S. Government Excluded Parties List System of ineligible firms. In addition, proposers must be familiar with Indiana Department of Transportation's policies and procedures and be on INDOT's pre-qualified list of consultants for the area that they will be working in as referenced in Section 4.1. Familiarity with Michigan DOT policies and procedures will be a bonus since one segment of the trail is within the state boundaries of Michigan.

3.7 Federal Requirements

This project is being funded with federal funds. As such, the project will be developed in a manner which satisfies all applicable Federal, State, and Local regulations. Final approval of the winning proposer shall receive approval from FHWA. If selected, the Consultant must be able to verify that they can meet the terms and conditions listed in Section 5 and Section 7 - Exhibit A.

3.8 Contracts and Administration

Contract Type: Project-Specific
Compensation Method: Negotiated Rate
Number of Firms Selected: 1
Approximate Number of Assignments: 1
Term of Contract: Until project is complete, not to exceed grant expiration of June 30, 2029
Will the item involve 2 step scoring? Yes
Is Federal funding involved? Yes
Prequalifications Required? Yes, as referenced in Section 4.1
DBE Goals: No DBE Goals
Maximum Contract Amount: \$600,000.00

4. SCOPE OF SERVICES

4.1 General Information

A consultant hired in a management support role (as defined in 23 CFR 172.3 and 23 CFR 172.7b(5)) is precluded from providing additional services for projects, activities, or contracts under its oversight due to potential conflicts of interest. These services include performance of work and review, or evaluation of work done by their firm on behalf of the contracting agency.

Per 23 CFR 172.3:

Management support role means performing engineering management services or other services acting on the contracting agency's behalf, which are subject to review and oversight by agency officials, such as a program or project administration role typically performed by the contracting agency and necessary to fulfill the duties imposed by title 23 of the United States Code, other Federal and State laws, and applicable regulations.

The firm chosen will work closely with NIRPC and FHWA to develop documents, processes, and schedules for the entire suite of projects listed in the RAISE grant. In addition, the firm will review and pre-approve all design plans and documents including the NEPA document before submission to FHWA. Documents to be reviewed include, but are not limited to:

- Design (all Stages)
- Environmental Processes & documents
- Right of Way (Services and Acquisition)
- Utility Plans & Agreements
- Railroad Plans & Agreements
- All final tracings documents (PS&E) as required by FHWA.

Therefore, the proposers must have competencies listed in the INDOT prequalifications categories listed here:

- 1.0 Planning Systems
- 5.0 Environmental Services
 - 5.1 Env Doc Prep – EA/EIS
 - 5.2 Env Doc Prep – CE
 - 5.3 Env Doc Prep – 4(f)
 - 5.4 Ecological Survey
 - 5.5 Stream & Wetland Mitigation
 - 5.6 Waterway Permitting
 - 5.9 Archaeological Investigations
 - 5.10 Historical/Architectural Investigations
 - 5.11 Environmental Site Assessment
 - 5.13 ESA Screening/Phase 1 ESA
 - 5.14 Phase 2 ESA & Mitigation
- 6.0 Topographical Survey Data Collection
- 7.0 Geotechnical Engineering Services
- 8.0 Roadway Design
 - 8.1 Non-Complex Roadway Design
- 9.0 Bridge Design

- 9.1 Level 1 Bridge Design
 - 9.2 Level 2 Bridge Design
- 11.0 Right of Way Plan Development
- 12.0 Right of Way Acquisition Services
 - 12.1 PM for ROW Acquisition Services
 - 12.2 Title Research
 - 12.3 Value Analysis
 - 12.4 Appraisal
 - 12.5 Appraisal Review
 - 12.6 Negotiations
 - 12.7 Closing
- 16.0 Utility Coordination Services
- 17.0 Hydraulic Engineering
 - 17.1 Small Structure & Pipe Hydraulic Design
- 18.0 Pavement Analysis-Design

One section of this trail is within the boundaries of the State of Michigan, Communications between all of the stakeholders will be paramount. The schedule for the project is on an accelerated path with lettings approved and contractor(s) under contract by June 30, 2024. NIRPC is anticipating an Accelerated Construction Method (ACM) for the various phases of the trail. The proposers should be familiar with various ACMs and their applicability and legality.

In addition, the winning proposer will act as the sponsor's engineer and provide answers to all technical questions and be available for consultation on all other matters relating to project delivery. NIRPC will remain the project's sponsor and the Employee in Responsible Charge. Construction Inspection (CE) is not part of this contract.

4.2 Scope of Services

Consultant shall furnish Project management personnel to assist NIRPC with Project Management and Engineering Design Services. For the purpose of this RFQ, Project management personnel may include but not be limited to an Office Engineer/Project Manager for Construction, Design Project Management, Design/Drafting Technician, Environmental, Right of Way Acquisition. Services required under this project shall also be performed in accordance with US and Indiana Department of Transportation guidelines, regulations, policies, procedures, manuals, and standards except as noted in special provisions.

Procurement Support

- Partner with NIRPC Capital Program Management, Construction, Major Projects, Contracting, Procurement, and Legal divisions to develop an efficient procurement approach for Marquette Greenway projects.
 - Contracting considerations will include:
 - Milestone based payments
 - Utilization of incentives and penalties
 - Performance measurement and data collection/reporting
 - Minimum requirements
 - Labor and workforce considerations

- Create a Request for Proposals (RFP) process and timeline for vendors to include eligible proposers, eligible locations, eligible project types, cost share requirements, eligible expenditures, equipment and site requirements and specifications.
- Develop RFP proposal application review process and scoring criteria for vendors.

Planning and Environmental Clearance

- Provide oversight and support to selected vendors for successful completion of state and federally required planning and environmental documentation for properties selected.

Project Management

- Oversee and ensure compliance with vendors of all applicable local, state, and federal laws.
- Manage and oversee Uniform Act real estate acquisition provisions, as applicable.
- Will have oversight with site selection, site design, drainage analysis, traffic control, landscaping design, signing and pavement markings, lighting, architecture, survey, Intelligent Transportation Services (ITS), and right-of-way services.

Operations and Maintenance Oversight

- Review and advise on operations and maintenance invoices.
- Monitor operations and perform audits.

4.3 Timeline

All funds through the Rebuilding America Infrastructure with Sustainability & Equity (RAISE) discretionary grant program must be obligated by June 30, 2024, and expended by June 30, 2029.

5. GENERAL TERMS AND CONDITIONS ASSOCIATED WITH FHWA CONTRACTS

The following Federal Regulations, Contract Provisions and Clauses are incorporated into this agreement in their entirety and made an integral part hereof.

1.1. Access to Records. The CONTRACTOR shall maintain all books, documents, papers, accounting records and other evidence pertaining to the cost incurred and shall make such materials available, at their respective offices at all reasonable times during the period of the Agreement and for three years from the date of final payment of federal funds, to NIRPC for inspection by NIRPC, FHWA, or any other authorized representative of the federal and state government and copies thereof shall be furnished at no cost if requested.

1.2. Assignment; Successors. The CONTRACTOR binds its successors and assignees to all the terms and conditions of this Agreement. Except as otherwise specifically provided herein, the CONTRACTOR shall not assign or subcontract the whole or any part of this Agreement without the Commission's prior written consent. The CONTRACTOR may assign its right to receive payments, if any, to such third parties as the CONTRACTOR may desire without the prior written consent of Commission, provided that the CONTRACTOR gives written notice (including evidence of such assignment) to Commission thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Agreement and shall not be made to more than one party.

1.3. Audits. The CONTRACTOR acknowledges that it may be required to submit to an audit of funds paid through this Agreement. Any such audit shall be conducted in accordance with IC §5-11-1, *et seq.*, and audit guidelines specified by the State.

1.4. Authority to Bind the CONTRACTOR. The signatory for the CONTRACTOR represents that he/she has been duly authorized to execute this Agreement on behalf of the CONTRACTOR and has obtained all necessary or applicable approvals to make this Agreement fully binding upon the CONTRACTOR when his/her signature is affixed, and accepted by the State.

1.5. Certification for Federal-Aid Contracts Lobbying Activities. The CONTRACTOR certifies, by signing and submitting this Agreement, to the best of its knowledge and belief that the CONTRACTOR has complied with Section 1352, Title 31, U.S. Code, and specifically, that:

A. No federal appropriated funds have been paid or will be paid, by or on behalf of the CONTRACTOR, 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 agreements, 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 agreement, 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 such federal agreement, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The CONTRACTOR also agrees by signing this Agreement that it shall require that the language of this certification be included in all contractor agreements including lower tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly. Any person who fails to sign

or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

1.6. Compliance with Laws.

A. The CONTRACTOR shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Agreement shall be reviewed by the State and the CONTRACTOR to determine whether the provisions of this Agreement require formal modification.

B. The CONTRACTOR and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC §4-2-6, *et seq.*, IC §4-2-7, *et seq.* and the regulations promulgated thereunder. **If the CONTRACTOR has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Agreement, the CONTRACTOR shall ensure compliance with the disclosure requirements in IC 4-2-6-10.5 prior to the execution of this contract.** If the CONTRACTOR is not familiar with these ethical requirements, the CONTRACTOR should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the CONTRACTOR or its agents violate any applicable ethical standards, the Commission may, in its sole discretion, terminate this Agreement immediately upon notice to the CONTRACTOR. In addition, the CONTRACTOR may be subject to penalties under IC §§4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

C. The CONTRACTOR warrants that the CONTRACTOR and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Agreement and grounds for immediate termination.

D. The CONTRACTOR affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

G. As required by IC §5-22-3-7:

(1) The CONTRACTOR and any principals of the CONTRACTOR certify that:

(A) the CONTRACTOR, except for de minimis and nonsystematic violations, has not violated the terms of:

(i) IC §24-4.7 [Telephone Solicitation Of Consumers];

(ii) IC §24-5-12 [Telephone Solicitations]; or

(iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

(B) the CONTRACTOR will not violate the terms of IC §24-4.7 for the duration of the Agreement, even if IC §24-4.7 is preempted by federal law.

(2) The CONTRACTOR and any principals of the CONTRACTOR certify that an affiliate or principal of the CONTRACTOR and any agent acting on behalf of the CONTRACTOR or on behalf of an affiliate or principal of the CONTRACTOR, except for de minimis and nonsystematic violations,

(A) has not violated the terms of IC §24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

(B) will not violate the terms of IC §24-4.7 for the duration of the Agreement, even if IC §24-4.7 is preempted by federal law.

1.7. Debarment and Suspension.

A. The CONTRACTOR certifies by entering into this Agreement that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Agreement means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the CONTRACTOR.

B. The CONTRACTOR certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Agreement and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The CONTRACTOR shall immediately notify the Commission if any subcontractor becomes debarred or suspended, and shall, at the Commission's request, take all steps required to terminate its contractual relationship with the subcontractor for work to be performed under this Agreement.

1.8. Drug-Free Workplace Certification.

As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the CONTRACTOR hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The CONTRACTOR will give written notice to the Commission within ten (10) days after receiving actual notice that the CONTRACTOR, or an employee of the CONTRACTOR in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Agreement and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Agreement is in excess of \$25,000.00, the CONTRACTOR certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the CONTRACTOR's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the CONTRACTOR's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the CONTRACTOR of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the Commission in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations

occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

1.9. Employment Eligibility Verification. As required by IC §22-5-1.7, the CONTRACTOR swears or affirms under the penalties of perjury that the CONTRACTOR does not knowingly employ an unauthorized alien. The CONTRACTOR further agrees that:

A. The CONTRACTOR shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC §22-5-1.7-3. The CONTRACTOR is not required to participate should the E-Verify program cease to exist. Additionally, the CONTRACTOR is not required to participate if the CONTRACTOR is self-employed and does not employ any employees.

B. The CONTRACTOR shall not knowingly employ or contract with an unauthorized alien. The CONTRACTOR shall not retain an employee or contract with a person that the CONTRACTOR subsequently learns is an unauthorized alien.

C. The CONTRACTOR shall require his/her/its subcontractors, who perform work under this Agreement, to certify to the CONTRACTOR that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The CONTRACTOR agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

1.10. Force Majeure. In the event that any Party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected Party (hereinafter referred to as a “Force Majeure Event”), the Party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other Parties and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement.

1.11. Funding Cancellation Clause. When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Agreement, this Agreement shall be canceled. A determination by the Director of State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

1.12. Governing Law. This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

1.13. Indemnification. The CONTRACTOR agrees to exculpate and hold harmless the State of Indiana, INDOT, the Commission and their officials and employees from any liability due to loss, damage, injuries, or other casualties of whatever kind, or by whosoever caused, to the person or property of anyone arising out of, or resulting from the performance of this Agreement or the work connected therewith, or from the installation, existence, use, maintenance, condition, repairs, alteration or removal of any equipment or material, to the

extent of negligence of the CONTRACTOR, including any claims arising out the Worker's Compensation Act or any other law, ordinance, order or decree. The Commission shall not provide indemnification to the CONTRACTOR.

The CONTRACTOR agrees to pay all reasonable expenses and attorney's fees incurred by or imposed on the State, INDOT and the Commission in connection herewith in the event that the CONTRACTOR shall default under the provisions of this Section.

1.14. Independent Entity; Workers' Compensation Insurance. The CONTRACTOR is performing as an independent entity under this Agreement. No part of this Agreement shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party.

1.15. Merger & Modification. This Agreement constitutes the entire agreement between the Parties. No understandings, agreements, or representations, oral or written, not specified within this Agreement will be valid provisions of this Agreement. This Agreement may not be modified, supplemented, or amended, except by written agreement signed by all necessary Parties.

1.16. Non-Discrimination.

A. This Agreement is enacted pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964 as amended, the Age Discrimination in Employment Act, and the Americans with Disabilities Act. Breach of this covenant may be regarded as a material breach of this Agreement, but nothing in this covenant shall be construed to imply or establish an employment relationship between the Commission and any applicant or employee of the CONTRACTOR or any subcontractor.

Under IC 22-9-1-10 the CONTRACTOR covenants that it shall not discriminate against any employee or applicant for employment relating to this Agreement with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, or status as a veteran.

B. The CONTRACTOR understands that the Commission is a recipient of federal funds. Pursuant to that understanding, the CONTRACTOR agrees that if the CONTRACTOR employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the CONTRACTOR will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The CONTRACTOR shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Agreement.

It is the policy of the Commission to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in,

be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

C. During the performance of this Agreement, the CONTRACTOR, for itself, its assignees and successors in interest (hereinafter referred to as the "CONTRACTOR") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:

1. Compliance with Regulations: The CONTRACTOR shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

2. Nondiscrimination: The CONTRACTOR, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the CONTRACTOR for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONTRACTOR of the CONTRACTOR's obligations under this Agreement, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, income status, limited English proficiency, or status as a veteran.

4. Information and Reports: The CONTRACTOR shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Indiana Department of Transportation and Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONTRACTOR is in the exclusive possession of another who fails or refuses furnish this information, the CONTRACTOR shall so certify to the Indiana Department of Transportation or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the CONTRACTOR's noncompliance with the nondiscrimination provisions of this Agreement, the Indiana Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding payments to the CONTRACTOR under the Agreement until the CONTRACTOR complies, and/or (b) cancellation, termination or suspension of the Agreement, in whole or in part.

6. Incorporation of Provisions: The CONTRACTOR shall include the provisions of paragraphs 1. through 5. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The CONTRACTOR shall take such action with respect to any subcontract or procurement as the Indiana Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the

CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONTRACTOR may request the Indiana Department of Transportation to enter into such litigation to protect the interests of the Indiana Department of Transportation, and, in addition, the CONTRACTOR may request the United States of America to enter into such litigation to protect the interests of the United States of America.

1.17. Penalties, Interest and Attorney's Fees. The Commission will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, IC §5-17-5, IC §34-54-8, and IC §34-13-1.

Notwithstanding the provisions contained in IC §5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

1.18. Public Record. The CONTRACTOR acknowledges that the Commission will not treat this Agreement as containing confidential information.

1.19. Severability. The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Agreement.

1.20. Status of Claims. The CONTRACTOR shall be responsible for keeping the Commission currently advised as to the status of any claims made for damages against the CONTRACTOR resulting from services performed under this Agreement.

1.21. Substantial Performance. This Agreement shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

1.22. Waiver of Rights. No right conferred on either party under this Agreement shall be deemed waived, and no breach of this Agreement excused, unless such waiver is in writing and signed by the party claimed to have waived such right.

1.23. Disadvantaged Business Enterprise Program. Notice is hereby given to the CONTRACTOR or SUB-CONTRACTOR that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Grant Agreement and, after notification, may result in termination of the Agreement or such remedy as the Commission deems appropriate. The referenced section requires the following policy and disadvantaged business enterprise (DBE) assurance to be included in all subsequent Agreements between the CONTRACTOR and any SUB-CONTRACTOR:

The CONTRACTOR, and any sub recipient or SUB-CONTRACTOR shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The CONTRACTOR shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted Agreements. Failure by the CONTRACTOR to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy, as the recipient deems appropriate.

As part of the CONTRACTOR's equal opportunity affirmative action program, it is required that the CONTRACTOR shall take positive affirmative actions and put forth good faith efforts to solicit proposals or bids from and to utilize disadvantaged business enterprise SUB-CONTRACTORS, vendors or suppliers.

1.24. Conservation. In carrying out this agreement, the CONTRACTOR agrees to comply with the requirements of mandatory standards as contained in the State of Indiana's energy conservation plan issued in compliance with the federal Energy Policy and Conservation Act (PL 94-163,89 Statutes 871).

1.25. Compliance with Clean Air and Water Acts (applicable to all contracts over \$100,000). In carrying out this agreement, the CONTRACTOR agrees to comply with the requirements of Section 306 of the Federal Clean Air Act (42 USC 1857(h)), section 508 of the Clear Water Act (33 USC 1368), Executive Order 11738, and the Environmental Protection Agency regulations (40 CFR Part 15) respective to all contracts in excess of \$100,000 awarded by grantees and subgrantees. Such statutes and regulations prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the Environmental Protection Agency's List of Violating Facilities. The provision shall require reporting of violations to the grantor agency and to the US Environmental Protection Agency.

1.26. Copyright and Patent Rights. No reports, maps, or other documents produced in whole or in part under this contract shall be the subject of an application for copyright by or on behalf of the CONTRACTOR. FHWA, INDOT, and the Commission shall possess all rights to invention or discovery, as well as rights in data which may arise as a result of the contractor's services.

1.27. Conflict of Interest (24 CFR 85.36 and 24 CFR 570.611). The contractor shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by federal funds. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Persons covered under this section include any person who is:

- (a) An employee, agent, consultant, officer, or elected or appointed official of the grantee, any designated public agency or any subrecipient agency that is receiving funds from the Federal Highway Administration (FHWA);
- (b) Any member of his/her immediate family;
- (c) His or her partner; or
- (d) An organization which employs, or is about to employ, any of the above, or has a financial or other interest in the firm selected for award.

The contractor's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements funded with FHWA funds. To the extent permitted by state or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents or by contractors or their agents.

No persons described in (a) through (d) above who exercise or have exercised any functions or responsibilities with respect to FHWA-assisted activities, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the FHWA-assisted activity, or with respect to the proceeds from the FHWA-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter.

1.28. Remedies/Sanctions or Breach of Contract Terms. Upon written notice, the grantee may withhold payments to the contractor if the contractor shall fail to fulfill in a timely and proper manner its obligations to grantee under this contract, or if the contractor shall violate any of the conditions of this contract. The grantee shall in its written notice to contractor fully describe the nature of failure or violation by contractor, the corrective action required of contractor, and the grantee shall allow the contractor thirty (30) days from the date of notification to correct such failure and/or violation. If such failure or violation is corrected by the contractor within thirty (30) days from the date of notification, then

the grantee shall process payment(s) to the contractor. If such failure or violation is not corrected within thirty (30) days from the date of this notification, then the grantee may proceed to terminate this contract.

1.29. Termination of Contract for Cause – 24 CFR 85.43 (All Contracts in Excess of \$10,000). If the contractor shall fail to fulfill in a timely and proper manner his/her obligations under this contract, or if the contractor shall continue to violate any of the covenants, agreements, or stipulations of this contract, following notices by the grantee and allowances for corrective actions specified, the grantee shall thereupon have the right to terminate this contract by giving written notice to the contractor of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the contractor under this contract shall, at the option of the grantee, become the property of the grantee and the contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. In the event the contractor disputes grantee's election to terminate this contract for cause under this paragraph, contractor may pursue equitable relief or remedy.

1.30. Termination for Convenience – 24 CFR 85.44 (All Contracts in Excess of \$10,000). The grantee may terminate this contract for its convenience, at any time, by giving at least thirty (30) days-notice in writing to the contractor. If the contract is terminated by the grantee as provided herein, the grantee agrees to pay the contractor, no later than thirty (30) days following the date of the written notice of contract termination by grantee. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the contractor under this contract shall, at the option of the grantee, become the property of the grantee and the contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Changes to Contract. The terms and conditions of this contract may be changed at any time by mutual agreement of the parties. Such modification shall be effective upon the signing by both parties of an addendum to this contract encompassing those changes. Where the addendum changes the compensation or time of performance, it shall also describe the change in scope, character or complexity of the work that is the basis for the change.

1.31. Contractor to Furnish Necessary Personnel Resources. The contractor represents that it has, or will secure at its own expense, all personnel required in performing the services specified in this contract. Such personnel shall not be employees of or have, as individuals, any contractual relationship with the grantee. All of the services required hereunder will be performed by the contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.

With the exception of the work described as being subcontracted within the contract, if any, none of the work or services covered by this contract shall be subcontracted without the prior approval of the grantee. Any additional work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this contract.

1.32 General. This Agreement represents the entire understanding between the Parties relating to the subject matter, and supersedes any and all prior oral and/or written communications, understandings or agreements relating to the subject matter. The headings are inserted for convenience only and do not constitute part of this Agreement.

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6. ADDITIONAL MATERIALS AND REQUIRED CERTIFICATIONS

[Remainder of Page Intentionally Left Blank]

6.1 Current Business Status

Name of firm Completing this Form: _____

Name of Proposer: _____

Position within firm: _____

1. Has the firm or any affiliate,* or any current officer, director or employee of either the firm or any affiliate, been indicted or convicted of bid (i.e., fraud, bribery, collusion, conspiracy, antitrust, etc.) or other contract related crimes or violations or any other felony or serious misdemeanor within the past ten years (measured from the date of issuance of this RFQ)?

Yes No

If yes, please explain:

2. Has the firm or any affiliate* ever sought protection under any provision of any bankruptcy act within the past ten years (measured from the date of issuance of this RFQ)?

Yes No

If yes, please explain:

3. Has the firm or any affiliate* ever been disqualified, removed, debarred or suspended from performing work for the federal government, any state or local government, or any foreign governmental entity within the past ten years (measured from the date of issuance of this RFQ)?

Yes No

If yes, please explain:

4. Has the firm or any affiliate* ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or other material misrepresentation to a public entity within the past ten years (measured from the date of issuance of this RFQ)?

Yes No

If yes, as to each such inquiry, state the name of the public agency, the date of the inquiry, the grounds on which the public agency based the inquiry, and the result of the inquiry.

5. Has any construction project performed or managed by the firm or, to the knowledge of the undersigned, any affiliate* involved serious, repeated or multiple failures to comply with safety rules, regulations, or requirements within the past ten years (measured from the date of issuance of this RFQ)?

Yes No

If yes, please identify the team members and the projects, provide an explanation of the circumstances, and provide owner contact information including telephone numbers and e-mail addresses.

6. Has the firm or any affiliate* been found, adjudicated or determined by any federal or state court or agency (including, but not limited to, the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance Programs and any applicable Indiana governmental agency) to have violated any laws or Executive Orders relating to employment discrimination or affirmative action within the past ten years (measured from the date of issuance of this RFQ), including but not limited to Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. Sections 2000 et seq.); the Equal Pay Act (29 U.S.C. Section 206(d)); and any applicable or similar Indiana law?

Yes No

If yes, please explain:

7. Has the firm or any affiliate* been found, adjudicated, or determined by any state court, state administrative agency, including, but not limited to, the Indiana Department of Labor, federal court or federal agency, to have violated or failed to comply with any law or regulation of the United States or any state within the past ten years (measured from the date of issuance of this RFQ) governing any of common construction wages, (prevailing wages) (including but not limited to payment for health and welfare, pension, vacation, travel time, subsistence, apprenticeship or other training, or other fringe benefits) or overtime compensation?

Yes No

If yes, please explain:

8. With respect to each of Questions 1-7 above, if not previously answered or included in a prior response on this form, is any proceeding, claim, matter, suit, indictment, etc. currently pending against the firm that could result in the firm being found liable, guilty or in violation of the matters referenced in Questions 1-7 above and/or subject to debarment, suspension, removal or disqualification by the federal government, any state or local government, or any foreign governmental entity?

Yes No

If yes, please explain and provide the information requested as to such similar items set forth in Questions 1-7 above.

9. Has there been any instance where the firm or any affiliate*, or its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive or were found by an awarding body not to be a responsible bidder?

Yes No

If yes, please explain:

10. Has there been any settled adverse claim, dispute or lawsuit between the owner of a public works project and the firm or any affiliate* during the last five years in which the claim, settlement or judgment exceeded fifty thousand dollars (\$50,000)?

Yes No

If yes, please explain:

11. In the past five years has the firm or any affiliate* had liquidated damages assessed against it during or after completion of a contract?

Yes No

If yes, please explain:

12. Has a surety for the firm or any affiliate* completed a contract on the entity's behalf or paid for completion because the entity was in default or terminated by the project owner within the last 5 years?

Yes No

If yes, please explain:

13. In the past five years, has the firm or any affiliate* had any license, credential, or registration revoked or suspended?

Yes No

If yes, please provide specific details including date(s), reason(s), for revocation or suspension, whether same was reinstated, and any conditions thereto: _____

* The term "affiliate" has the meaning set forth in Section 3.1 of the RFQ. Under penalty of perjury, I certify that the foregoing is true and correct, and that I am the firm's Official Representative:

By: _____

Print Name: _____

Title: _____

Date: _____

[Please make additional copies of this form as needed for each entity required to complete this form.]

[Remainder of Page Intentionally Left Blank]

6.2 No Proposal Reply Form

NO PROPOSAL REPLY FORM

To assist NIRPC in obtaining good competition on its solicitations, we ask that if you received an invitation or notification but do not wish to submit a response to this solicitation, please state the reason(s) below and return this form to:

Lisa Todd, Procurement Manager
ltodd@nirpc.org
6100 Southport Rd., Portage, IN 46368

NOTE: This information is specific to this solicitation and will not preclude receipt of future invitations unless you request removal from the Vendor List by indicating below.

Unfortunately, we must offer a "No Submission" at this time because:

1. We do not wish to participate in the solicitation process itself.

2. We do not wish to submit under the terms and conditions of this particular solicitation document. Our objections are as follows:

3. We do not feel we can be competitive. (Please elaborate below)

4. We do not provide the particular services on which submissions are requested.

5. Other:

We wish to remain on NIRPC's Vendor List for these services/as a general vendor.

We wish to be removed from NIRPC's Vendor List.

COMPANY NAME _____

COMPANY REPRESENTATIVE SIGNATURE _____

DATE _____

6.3 Compliance With Federal Requirements

CERTIFICATION OF COMPLIANCE WITH FEDERAL REQUIREMENTS

_____ (Proposer) certifies that it can comply with the Federal requirements and conditions as outlined in this document.

Signature

Title

Date

6.4 Compliance With Debarment and Suspension

CERTIFICATION OF COMPLIANCE WITH GOVERNMENT-WIDE DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION PROVISIONS – LOWER TIER COVERED TRANSACTIONS

(Contractors that apply or bid for an award of \$25,000 or more must file the required certification)

In regard to 2 CFR Part 180 and Executive Order 12549 and 12689

By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below in accordance with the following instructions:

1. 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, NIRPC may pursue available remedies, including suspension and/or debarment.
2. The prospective lower tier participant shall provide immediate written notice to NIRPC if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
3. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier 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 and 12689 [2 CFR Part 180]. You may contact NIRPC for assistance in obtaining a copy of those regulations.
4. 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 in writing by NIRPC.
5. The prospective lower tier 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", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it 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 issued by U.S. General Service Administration.
7. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under Paragraph 5 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 all remedies available to the Federal Government, NIRPC may pursue available remedies including suspension and/or debarment.

Pursuant to the above instructions:

- (1) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 2 C.F.R. 180] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Signature of Proposer's Authorized Official

Name and Title of Proposer's Authorized Official

Date

6.5 Certification Regarding Lobbying

CERTIFICATION REGARDING LOBBYING

2 CFR Part 200 - Appendix II

Certification For Contracts, Grants, Loans, And Cooperative Agreements

(Contractors that apply or bid for an award of \$100,000 or more must file the required certification)

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

Signature of Proposer's Authorized Official

Name and Title of Proposer's Authorized Official

Date

6.6 Non-Collusion Affidavit

NON-COLLUSION AFFIDAVIT

The undersigned Proposer, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person from Proposing not to induce anyone to refrain from proposing, and that this proposal is made without reference to any other proposal and without any agreement, understanding or combination with any other person in reference to such proposing. He further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly any rebate, fee, gift, commission or thing of value on account of such sale.

Printed Name of Proposer

Signature of Proposer

Date

6.7 No Investment in Iran

CERTIFICATION IN NO INVESTMENT IN IRAN

As required by IC 5-22- 16.5, Contractor certified that it is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Contract and denial of future state contracts, as well as imposition of a civil penalty.

Contractor

Signed: _____

Printed Name: _____

Title: _____

6.8 Employment Eligibility Verification

EMPLOYMENT ELIGIBILITY VERIFICATION

Contractor affirms under the penalties of perjury that it does not knowingly employ an unauthorized alien. Contractor shall enroll in and verify the work eligibility status of all its newly hired employees through the Federal E-Verify program as defined in IC 22-5-1.7-3. Contractor is not required to participate should the Federal E-Verify program cease to exist. Contractor shall not knowingly employ or contract with an unauthorized alien. Contractor shall not retain an employee or contract with a person that Contractor subsequently learns is an unauthorized alien.

Contractor shall require its subcontractors, who perform work under this contract, to certify to the Commission that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the Federal E-Verify program. Contractor agrees to maintain this certification throughout the duration of the term of this agreement with the Commission and during the term of any subsequent contract with a subcontractor performing work under this agreement.

The Commission may terminate for default if Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the Commission.

Contractor

Signed: _____

Printed Name: _____

Title: _____

Date: _____

7. EXHIBITS

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7.1 Exhibit A – Applicable Federal Laws and Regulations

EXHIBIT A APPLICABLE FEDERAL LAWS AND REGULATIONS

NIRPC requires the proposer to be familiar with and be able to assist NIRPC with compliance with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Project. Performance under this agreement shall be governed by and in compliance with the following requirements, as applicable, to the type of organization of the Recipient and any applicable sub-recipients. The applicable provisions to this agreement include, but are not limited to, the following:

7.1.1 General Federal Legislation

- a. Davis-Bacon Act – 40 U.S.C. 3141, et seq., as applicable under 23 U.S.C. 113
- b. Federal Fair Labor Standards Act – 29 U.S.C. 201, et seq.
- c. Hatch Act – 5 U.S.C. 1501, et seq.
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 – 42 U.S.C. 4601, et seq.
- e. National Historic Preservation Act of 1966 - Section 106 – 54 U.S.C. 306108
- f. Archeological and Historic Preservation Act of 1974 – 54 U.S.C. 312501, et seq.
- g. Native American Graves Protection and Repatriation Act – 25 U.S.C. 3001, et seq.
- h. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. 7401, et seq.
- i. Section 404 of the Clean Water Act, as amended – 33 U.S.C. 1344
- j. Section 7 of the Endangered Species Act, P.L. 93-205, as amended – 16 U.S.C. 1536
- k. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. 1451, et seq.
- l. Flood Disaster Protection Act of 1973 - Section 102(a) – 42 U.S.C. 4012a
- m. Age Discrimination Act of 1975 – 42 U.S.C. 6101, et seq.
- n. American Indian Religious Freedom Act, P.L. 95-341, as amended
- o. Drug Abuse Office and Treatment Act of 1972, as amended – 21 U.S.C. 1101, et seq.
- p. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended – 42 U.S.C. 4541, et seq.
- q. Sections 523 and 527 of the Public Health Service Act of 1912, as amended – 42 U.S.C. 290dd through 290dd-2
- r. Architectural Barriers Act of 1968 – 42 U.S.C. 4151, et seq.
- s. Power Plant and Industrial Fuel Use Act of 1978, P.L. 100-42 - Section 403 – 42 U.S.C. 8373
- t. Contract Work Hours and Safety Standards Act – 40 U.S.C. 3701, et seq.
- u. Copeland Anti-kickback Act, as amended – 18 U.S.C. 874 and 40 U.S.C. 3145
- v. National Environmental Policy Act of 1969 – 42 U.S.C. 4321, et seq.
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. 1271, et seq.
- x. Federal Water Pollution Control Act, as amended – 33 U.S.C. 1251-1376
- y. Single Audit Act of 1984 – 31 U.S.C. 7501, et seq.
- z. Americans with Disabilities Act of 1990 – 42 U.S.C. 12101, et seq.
- aa. Title IX of the Education Amendments of 1972, as amended – 20 U.S.C. 1681

- through 1683 and 1685 through 1687
- bb. Section 504 of the Rehabilitation Act of 1973, as amended – 29 U.S.C. 794
- cc. Title VI of the Civil Rights Act of 1964 – 42 U.S.C. 2000d, et seq.
- dd. Title IX of the Federal Property and Administrative Services Act of 1949 – 40 U.S.C. 1101 -1104, 541, et seq.
- ee. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. 1352
- ff. Freedom of Information Act – 5 U.S.C. 552, as amended
- gg. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. 1855
- hh. Farmland Protection Policy Act of 1981 – 7 U.S.C. 4201, et seq.
- ii. Noise Control Act of 1972 – 42 U.S.C. 4901, et seq.
- jj. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. 661, et seq.
- kk. Section 9 of the Rivers and Harbors Act and the General Bridge Act of 1946 – 33 U.S.C. 401 and 525
- ll. Section 4(f) of the Department of Transportation Act of 1966 – 49 U.S.C. 303 and 23 U.S.C. 138
- mm. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended – 42 U.S.C. 9601, et seq.
- nn. Safe Drinking Water Act – 42 U.S.C. 300f to 300j-26
- oo. Wilderness Act – 16 U.S.C. 1131-1136
- pp. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 – 42 U.S.C. 6901, et seq.
- qq. Migratory Bird Treaty Act – 16 U.S.C. 703, et seq.
- rr. The Federal Funding Transparency and Accountability Act of 2006, as amended (Pub. L. 109–282, as amended by section 6202 of Public Law 110–252)
- ss. Cargo Preference Act of 1954 – 46 U.S.C. 55305
- tt. Section 889 of the John D. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232

7.1.2 Executive Orders

- a. Executive Order 11246 – Equal Employment Opportunity
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11988 – Floodplain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12549 – Debarment and Suspension
- f. Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- g. Executive Order 13166 – Improving Access to Services for Persons With Limited English Proficiency
- h. Executive Order 13985 – Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 14005 – Ensuring the Future is Made in All of America by All of America’s Workers
- j. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

7.1.3 General Federal Regulations

- a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – 2 C.F.R. Parts 200, 1201
- b. Non-procurement Suspension and Debarment – 2 C.F.R. Parts 180, 1200
- c. Investigative and Enforcement Procedures – 14 C.F.R. Part 13
- d. Procedures for predetermination of wage rates – 29 C.F.R. Part 1
 - e. Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States – 29 C.F.R. Part 3
 - f. Labor standards provisions applicable to contracts governing federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) – 29 C.F.R. Part 5
 - g. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) – 41 C.F.R. Parts 60, et seq.
- h. New Restrictions on Lobbying – 49 C.F.R. Part 20
- i. Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 – 49 C.F.R. Part 21
 - j. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs – 49 C.F.R. Part 24
- k. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance – 49 C.F.R. Part 25
- l. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance – 49 C.F.R. Part 27
- m. DOT's implementation of DOJ's ADA Title II regulations compliance procedures for all programs, services, and regulatory activities relating to transportation under 28 C.F.R. Part 35
 - n. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 C.F.R. Part 28
- o. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors – 49 C.F.R. Part 30
- p. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 C.F.R. Part 32
- q. DOT's implementing ADA regulations for transit services and transit vehicles, including the DOT's standards for accessible transportation facilities in Part 37, Appendix A – 49 C.F.R. Parts 37 and 38
- r. Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs – 49 C.F.R. Part 26 (as applicable under section 18.3 of this agreement)

7.1.4 Office of Management and Budget Circulars

- a. Any applicable OMB Circular based upon the specific FY 2021 RAISE Grant Recipient.

7.1.5 Highway Federal Legislation

- a. Highways – Title 23, U.S.C.
- b. Brooks Act (for FHWA projects, this incorporates Title IX of the Federal Property and Administrative Services Act of 1949 (formerly 40 U.S.C. 541, et seq.)) – 40 U.S.C. 1101-1104; 23 U.S.C. 112(b)(2)
- c. Letting of Contracts, 23 U.S.C. 112
- d. Highway Design and Construction Standards, 23 U.S.C. 109
- e. Prevailing Rate of Wage, 23 U.S.C. 113
- f. Planning, 23 U.S.C. 134 and 135 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- g. Tolls, 23 U.S.C. 301 (to the extent the recipient wishes to toll an existing free facility that has received Title 23 funds in the past); except as authorized by 23 U.S.C. 129 and 166.
- h. Size, Weight, and Length Limitations – 23 U.S.C. 127, 49 U.S.C. 31101 et seq.
- i. Buy America – 23 U.S.C. 313
(see http://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm)
- j. Nondiscrimination – 23 U.S.C. 140
- k. Efficient Environmental Reviews - 23 U.S.C. 139

7.1.6 Federal Highway Regulations

- a. Highways – Title 23, C.F.R.
- b. Planning – 23 C.F.R. Part 450 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- c. National Highway System Design Standards – 23 C.F.R. Part 625
- d. Preconstruction Procedures – 23 C.F.R. Part 630 Subparts A and B
- e. Construction and Maintenance – 23 C.F.R. Part 635
- f. Design Build Contracting – 23 C.F.R. Part 636
- g. Manual on Uniform Traffic Control Devices – 23 C.F.R. Part 655
- h. Environmental Impact and Related Procedures – 23 C.F.R. Part 771
- i. Procedures for Abatement of Highway Traffic and Construction Noise – 23 C.F.R. Part 772
- j. Procedures Implementing Section 4(f) of the Department of Transportation Act – 23 C.F.R. Part 774
- k. Permitting Requirements under the National Pollutant Discharge Elimination System – 40 C.F.R. Part 122
- l. Required Contract Provisions – 23 C.F.R. Part 633 (Form 1273)
- m. External Programs – 23 C.F.R. Part 230

Specific assurances required to be included in the FY 2021 RAISE Grant agreement by any of the above laws, regulations, or circulars are hereby incorporated by reference into this agreement.

7.2 Exhibit B – Conflict of Interest Policy

NORTHWESTERN INDIANA REGIONAL PLANNING COMMISSION CONSULTANT CONFLICT OF INTEREST POLICY

Applicability

This policy applies to all contracts for professional services related to NIRPC projects including design-bid-build (DBB) contracts and design-build (DB) contracts. This policy applies to the individual entities that make up a joint venture in the same manner as they apply to the joint venture. Parent and subsidiary entities shall be considered the same entity for the purposes of these guidelines.

Goals

This policy is intended to accomplish the following goals:

- Promote integrity, competitiveness and fairness in the procurement and prosecution of consultant contract services;
- Provide guidance to enable consultants to make informed business decisions concerning participation in contracts with NIRPC;
- Permit consultants to compete fairly to either work for NIRPC or as part of construction contract team;
- Protect the interests of NIRPC; and
- Permit consultants to work without actual or apparent conflicts of interest.

Responsibilities

The consultant (and any subconsultant), not NIRPC, shall reasonably and in good faith anticipate, identify, and disclose to NIRPC any actual or potential Conflict.

In addition to complying with the requirements of this Policy, the consultant or subconsultant shall also comply with any other professional responsibilities, ethics code of conduct or law applicable to the consultant or subconsultant.

The consultant shall include a term requiring compliance with this Policy in any agreement or arrangement with any subconsultant in furtherance of any NIRPC contract.

The consultant and any subconsultant shall notify NIRPC of any conflict or potential conflict according to this policy in writing (by emailing NIRPC's Procurement Manager), fully explaining the conflict or potential conflict and providing any recommendations or protocol to remedy the conflict prior to (as applicable):

- The completion of any NIRPC consultant selection process;
- Any consultant engaging any subconsultant on an NIRPC contract; or
- The consultant or subconsultant accepting any work from an entity other than NIRPC.

Policy

1. Consultants and subconsultants shall provide independent and uncompromised judgment, counsel, work product and public representations, with respect to every

- contract with NIRPC.
2. Consultants and subconsultants shall support the policies and practices of NIRPC and the State of Indiana.
 3. Any conduct or set of facts that could or does compromise or limit the duties in Paragraphs (1) and (2) above shall be considered a Conflict of Interest (“Conflict”).
 4. NIRPC will review conflict of interest disclosures and strictly disallow the existence of conflicts in furtherance of the above goals. Exceptions will only be considered when, in the best interest of NIRPC, it is determined that the number of consultants available for a particular activity are inadequate.

Guidelines for Evaluating Conflicts of Interest

- NIRPC’s Consultant Selection Review Committee will consider the consultant’s or subconsultant’s notification of a potential Conflict with consultation from the Project Manager and agency Contracting Officer. The Committee will make a recommendation to the Commissioner on whether to object to the Conflict, waive the potential Conflict or require the consultant or subconsultant to remedy the Conflict. The Committee will include an explanation on why a waiver is appropriate for all recommendations to waive a Conflict.
- After receiving the recommendation of the Committee, NIRPC’s Commissioner or the Commissioner’s designee, in his or her sole discretion and with the exercise of reasonableness and good faith, may object to the Conflict, waive the Conflict, or require the Consultant (or subconsultant) to remedy the Conflict to NIRPC’s satisfaction as a condition of NIRPC awarding or continuing any contract or awarding any amendment to, extension or supplement of or additional work under any contract.

Conflict of Interest Examples

The following are activities considered to be Conflicts of Interest.

- Neither consultants nor subconsultants actively engaged in NIRPC contracted responsibilities for a project shall perform concurrent services for other clients that impact or depend upon NIRPC’s project.
- Neither consultants nor subconsultants actively engaged in NIRPC contracted responsibilities for a project shall market to perform future services for other clients that impact or depend upon NIRPC’s project while under contract to NIRPC.
- Neither consultants nor subconsultants actively engaged in NIRPC contracted responsibilities for a project shall entertain participation on a construction contract team for the same project.
- Neither consultants nor subconsultants who prepare engineering construction plans or construction contract bid documents for a project under contract to NIRPC shall entertain participation on a construction contract team for the same project.
- Neither consultants nor subconsultants actively engaged on a Design Build construction contract team for a project shall participate in an NIRPC professional services contract for the same project in a different role.
- Neither consultants nor subconsultants shall act as the Project Engineer/Supervisor within the hierarchal chain of command over construction inspection activities associated with construction plans or bid documents they prepared for NIRPC sponsored construction projects.
- Neither consultants nor subconsultants who prepare the detailed independent labor

hour estimate specified in 23 CFR 172.7(a)(1)(v)(B) to be used as the basis of negotiation for engineering services shall entertain participation in the same services.

The following activities are not considered to be Conflicts of Interest.

- A consultant or subconsultant that collects and reports environmental or geotechnical data, without engineering design recommendations, may participate on a construction contract team at the same project location so long as all contract services have been fulfilled and all work product is made available to all potential construction contract teams on an equal and timely basis such that there is no unfair competitive advantage.
- A consultant or subconsultant that performs real estate acquisition services, may participate on a construction contract team at the same project location so long as all contract services have been fulfilled prior to construction contract bid opening and all work product is made available to all potential construction contract teams on an equal and timely basis such that there is no unfair competitive advantage.
- A consultant or subconsultant contracted to perform specific planning surveys and studies such as asset management plans and biennial bridge inspections may concurrently perform or compete for project specific preliminary engineering, right-of-way and construction engineering services for projects within the study area.
- A consultant or subconsultant that prepares an engineering assessment or similar project report may compete for future project development services so long as the completed report is made publicly available to other competing teams at least four weeks prior to the RFP response due date.

CONSULTANT IN MANAGEMENT SUPPORT ROLE CONFLICT OF INTEREST AND Confidentiality Statement

RFP/RFQ PROCUREMENT NUMBERS (if applicable): _____

PROJECT NAME (and Project Number, if applicable)²: _____

APPLICABILITY: To be filled out by contracting agency consultants in management support role.

I am an employee of a consultant under contract to the contracting agency that is responsible for the procuring and administering of one or more consultant contracts containing either Federal or State funds.

I am in a management position with the contracting agency, my title is listed below and I have attached my duty statement and scope of work.

I hereby certify as follows:

1. I recuse myself from all potential conflicts of interest.
2. I will not directly or indirectly participate in, manage, or oversee any consultant selection procurement process in which the consulting firm of which I am employed is competing as a consultant or subconsultant.
3. I will not directly or indirectly influence any employee, staff member, or other individual participating in any consultant selection procurement process in which the consulting firm of which I am employed is as a consultant or subconsultant.
4. I will not directly or indirectly participate in, manage, or oversee any contracting agency contract that is with the consulting firm of which I am employed, regardless of whether the involvement of my employer in the contract is as a consultant or subconsultant. Among other things, this includes my not being involved in approving changes in the schedule, scope, deliverables or invoices.
5. I understand that if I am involved in any contracting agency contract that is with the consulting firm of which I am employed, in violation of 1. or 2. above, that local agency contract will no longer be eligible for Federal or State reimbursement because of my involvement.

I certify that I have read and understand my responsibilities per **23 CFR 172.7(b)(5)**

I fully understand that it is unlawful for a person to utilize any organization name (i.e. State, local, or contracting agency) or auxiliary organization information, which is not a matter of public record, for personal gain.

¹ Each consultant staff working in a management support role shall complete a separate form.

² For on-call contracts or contracts for multiple projects, indicate accordingly.

have read and fully understand all of the above.

Date: _____ Signature: _____

Name: _____

Title: _____

Consultant Firm/Sole Proprietor: _____

REVIEWED BY AUTHORIZED CONTRACTING AGENCY REPRESENTATIVE

I have reviewed the foregoing "Conflict of Interest and Confidentiality Statement" and will ensure:

that the foregoing named contracting agency consultant who is under contract and in a management support role with our contracting agency, abides by the foregoing terms and conditions;

that should the foregoing named contracting agency consultant, who is under contract and in a management support role with our local agency, violate any of the foregoing terms and conditions, NIRPC will be notified and such violation will be considered a breach of ethics and could be a basis for ineligibility of State or Federal project funds.

the procedures followed to procure and execute the contract, between my contracting agency and the consulting firm of which I am employed, comply with all federal and state requirements. Also this contract has a specific date from ____ to __

Date: _____ Signature: _____

Name: _____

Title: _____

Department/Contracting Agency: _____