REQUEST FOR PROPOSAL

TO PROVIDE CONSULTANT SERVICES FOR THE

GBNRTC

Traffic Signal Optimization Program

NIAGARA FRONTIER TRANSPORTATION AUTHORITY
(Greater Buffalo-Niagara Regional Transportation Council)

438 Main Street

Buffalo, New York 14202

PROJECT NO. 09 Traffic Signals
<table>
<thead>
<tr>
<th>TABLE OF CONTENTS</th>
<th>ATTACHMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>PROJECT DESCRIPTION</td>
<td>A</td>
</tr>
<tr>
<td>OUTLINE OF CONSULTANT SERVICES</td>
<td>B</td>
</tr>
<tr>
<td>PROPOSAL INSTRUCTIONS</td>
<td>C</td>
</tr>
<tr>
<td>AGREEMENT</td>
<td>D</td>
</tr>
<tr>
<td>SUBCONTRACTANT AGREEMENT</td>
<td>E</td>
</tr>
<tr>
<td>PROPOSAL EVALUATION FORM</td>
<td>F</td>
</tr>
</tbody>
</table>
ATTACHMENT A

PROJECT DESCRIPTION FOR

Traffic Signal Optimization Program

INTRODUCTION

The Greater Buffalo-Niagara Regional Transportation Council (GBNRTC) is the regional decision making forum designated by the Governor to cooperatively develop transportation plans for the Erie and Niagara Counties of Upstate New York. The Council’s primary focus is on formulating regional transportation policy, planning for future transportation development, and programming transportation facilities and services based on regional travel needs.

This Request for Proposal (RFP) is soliciting proposals to conduct of the GBNRTC’s Traffic Signal Optimization Program. Proposals will be evaluated for their comprehensiveness as well as the consultant’s demonstrated knowledge, experience and ability to conduct the work scope as described. The successful proposer will be required to execute a contract in the form set forth in Attachment D with the Niagara Frontier Transportation Authority (“NFTA”), the contracting member of the GBNRTC. This will be a two stage procurement process. Respondents will first be evaluated based on Technical Approach, Personnel Qualifications, and Experience as indicated in Attachment F. Respondents that fall within the competitive range after the first evaluation will be requested to submit a Cost Proposal in the format described in Attachment C. A preferred consultant will then be selected by the NFTA Board for contract award.

The consultant will be required to perform signal system timing analyses for direct implementation in the field. Numerous signal systems/corridors will be analyzed for phasing and timing improvements based on traffic data collected by GBNRTC/NYSDOT forces. These signals are those determined to be of greatest need for re-timing analysis and the results will be significant improvement in traffic flow characteristics including fewer vehicle stops, delays and pollutant emissions. The study will consist of a “Before” and “After” evaluation of the systems’ performance.

Work under the contract will be released in task order format for discrete tasks as requested by the GBNRTC Project Manager. Approximately $400,000 has been made available for work in this contract period. GBNRTC may request work at levels below or above that amount depending on program needs.
ATTACHMENT B

Project Scope

Objective:
The purpose of this Traffic Signal Optimization Program is to implement cost-effective traffic signal timing and coordination improvements that reduce travel time and harmful auto emissions within the GBNRTC’s two-county region. There are now more than 1,700 traffic signals maintained and operated by 32 different jurisdictions within Erie and Niagara Counties. The GBNRTC conducted a complete inventory of every operating signal in Erie and Niagara Counties in 2003. The consultant shall utilize collected volume data to develop multiple cycle length/split/offset combinations in order to account for multiple traffic scenarios along various corridors.

Scope:
The Scope of Work has been developed to provide guidance for the proposed signal optimization project. The project will consist of optimizing traffic signal timings at various intersections/corridors to be identified throughout Erie and Niagara Counties, New York.

Using the above data, the consultant will complete the following tasks:

- Conduct an updated inventory of existing signal equipment (controller equipment, signal heads, detectors, pedestrian signals and pushbuttons) by working with the GBNRTC and appropriate municipal staffs or by conducting field visits. Identify outdated and/or malfunctioning equipment (this information will assist the GBNRTC in understanding the need for a potential future signal equipment project). Review and identify existing equipment and signal related signing, pavement markings, street lighting, etc, for compliance with current standards, such as the MUTCD.

- Review the turning movement counts and automatic traffic recorder counts available from GBNRTC and NYSDOT, and determine if any additional traffic data collection is needed. The Consultant should also discuss with the municipalities any future development projects which may have significant effect on traffic operations at these intersections in the immediate future and obtain traffic data for these projects.

- Collect relevant field data for analysis purposes including, but not limited to, intersection data (number of lanes and lane use, pedestrian signalization/crosswalks, available storage lengths and shoulder widths), existing signal parameters (timing, cycle length, phasing, and time-of-day schedules, pre-emption equipment) and posted...
speed limits (including school speed zones). GBNRTC has an inventory of signalized intersection diagrams and existing Synchro files which may be used as a starting point for this effort.

- Document existing conditions using Synchro (version 6.0 or later) based on current signal timings. This may require access to the controller timing plans if the municipality does not have the current timing plans readily available. This information will be useful in comparing decreases in delay and queuing resulting from optimized timing. The Consultant will identify operational issues within each corridor including need for maintenance of signal equipment, issues with protected and permitted phasing, and observations about pedestrian vehicle interaction.

- Develop optimized timing plans using Synchro for design and analysis (version 6.0 or later) at all intersections and corridors. The timing plans will show any need for “time of year”, i.e. spring vs. winter vs. summer, etc, timings for individual intersections, including AM, PM or off peak hour conditions (Saturday) and other recommended timing plans for each intersection (i.e. school peaks, special events). Based on the analysis, the consultant should make recommendations for additional equipment and/or coordination, if deemed relevant. Pedestrian signal timing parameters should also be provided. The Synchro analysis and resulting timing plans will be submitted for review by the GBNRTC and the municipality.

- Assist municipal maintenance personnel in entering the new timings. This work includes programming the controllers with the new timings and making necessary adjustments to optimize the signals operation. After the new timing plans have been programmed into the controller, the Consultant shall monitor the timings on Friday and Saturday evening peak periods as necessary to ensure the timing plan is working correctly.

- Monitor new timings to ensure the timing plan is working correctly and work with municipal maintenance personnel to implement adjustments as necessary. The Consultant should plan for making a number of trips in the field to provide for adjusting individual intersection timings.

- Prepare a draft report for review by the GBNRTC, NYSDOT and municipal staffs.

ANTICIPATED TIME SCHEDULE

Issue Request for Proposal: April 13, 2009
Proposal Due Date: May 8, 2009
Request Cost Proposals: May 21, 2009
Cost Proposals Due Date: June 5, 2009
Recommend Preferred Consultant: June 10, 2009
NFTA Board Approval: June, 2009 meeting
Negotiate Final Contract: June 30, 2009
Notice to Proceed: July 1, 2009
# ATTACHMENT C

## PROPOSAL INSTRUCTIONS

### CONTENTS

<table>
<thead>
<tr>
<th>ARTICLE</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. General Information</td>
<td>3</td>
</tr>
<tr>
<td>1.1 Introduction</td>
<td>3</td>
</tr>
<tr>
<td>1.2 Consultant Qualifications</td>
<td>3</td>
</tr>
<tr>
<td>1.3 Joint Venture</td>
<td>4</td>
</tr>
<tr>
<td>1.4 Validity Period</td>
<td>4</td>
</tr>
<tr>
<td>1.5 Disclosure of Proposal Data</td>
<td>4</td>
</tr>
<tr>
<td>1.6 Agreement</td>
<td>4</td>
</tr>
<tr>
<td>1.7 RFP Amendments</td>
<td>4</td>
</tr>
<tr>
<td>1.8 Submittal of Proposals</td>
<td>5</td>
</tr>
<tr>
<td>1.9 Procedures for Competitive Selection</td>
<td>5</td>
</tr>
<tr>
<td>2. Proposal</td>
<td>5</td>
</tr>
<tr>
<td>2.1 Scope of Work</td>
<td>5</td>
</tr>
<tr>
<td>2.1.1 Format</td>
<td>5</td>
</tr>
<tr>
<td>2.1.2 Content</td>
<td>5</td>
</tr>
<tr>
<td>2.1.2.1 Cover Letter</td>
<td>6</td>
</tr>
<tr>
<td>2.1.2.2 Proposed Scope of Work</td>
<td>6</td>
</tr>
<tr>
<td>2.1.2.3 Program Implementation</td>
<td>6</td>
</tr>
<tr>
<td>2.1.2.4 Project Organization</td>
<td>6</td>
</tr>
</tbody>
</table>

C - 4
2.1.2.5  Work Location  7
2.1.2.6  Related Projects  7
2.1.2.7  Background Experience and Equipment Inventory  7
2.1.2.8  Key Personnel  7
2.2  Project Cost Proposal  7
  2.2.1  Format  7
  2.2.2  Content  7
  2.2.2.1  Manpower Plan/Direct Labor Costs  8
  2.2.2.2  Project Overhead  8
  2.2.2.3  Direct Non-Salary Costs  11
  2.2.2.4  Fixed Fee  11
  2.2.2.5  Proposal Summary  11
  2.3  Proposal Forms  11

3. Disadvantaged Business Enterprise Requirements  12

ARTICLE 1 General Information

1.1 Introduction

This Request for Proposal ("RFP") invites a consulting services proposal for services as set forth within. These services may be modified during contract negotiations between the Consultant and the NFTA/GBNRTC.

The Consultant is encouraged to use its previous knowledge and experience to develop a proposed scope of work and a time schedule for completion within the constraints previously identified. The adequacy of the Consultant's response will be a principal basis for evaluation of the proposals.

This RFP does not commit the NFTA/GBNRTC to negotiate a contract, nor does it obligate the NFTA/GBNRTC to pay for any costs incurred in preparation and submission of proposals or costs incurred prior to issuance of a Notice to Proceed.

The Consultant shall not commence work without first receiving a written Notice to Proceed.

Proposals will be accepted until May 8, 2009, at 3:00 p.m. at the Greater Buffalo-Niagara Regional Transportation Council, 438 Main Street, Fifth Floor, Buffalo, New York 14202. Proposals should be submitted in an opaque, sealed envelope. The lower left-hand corner should be marked as follows: Proposal for GBNRTC Major Corridor Studies and System Operations.

Proposals received after the date and time specified above for opening shall be considered late proposals and, therefore, shall not be opened and/or considered for award.

1.2 Consultant Qualifications

To be considered qualified, the Consultant must demonstrate in its proposal that it has the background, experience, and the technical and management resources required to organize and conduct the effort outlined in this RFP. If requested by the NFTA/GBNRTC, the Consultant shall furnish information to document its ability to perform the required work. The NFTA/GBNRTC reserves the right to investigate the qualifications
of firms under consideration to confirm any part of the information furnished by the Consultant.

Anything less than satisfactory performance on a prior NFTA contract may lead to the NFTA/GBNRTC concluding that the Consultant is not qualified.

1.3 Joint Venture

Proposals submitted by a joint venture shall not be considered unless the contractual responsibilities of the parties to the joint venture are clearly and specifically identified.

1.4 Validity Period

The proposal shall be considered valid for the period of time it takes to negotiate a contract with the successful Consultant. This may involve a period of up to six months following submittal. If a proposal is not valid for this time period, notification of the valid time period must be made in the letter of transmittal.

1.5 Disclosure of Proposal Data

The proposal submitted in response to this request may contain data which the Consultant, or its proposed sub-consultants, do not want disclosed for any purpose other than evaluation of the proposal. The use and disclosure of any such data will be restricted if authorized by law, provided the Consultant identifies the pages of the proposal which are to be restricted.

1.6 Agreement

The Consultant awarded the contract will be required to execute an Agreement in the form set forth in Attachment D. The only Articles of the Agreement subject to negotiation after receipt of the proposal are Articles 1 and 2. All proposed sub-consultant agreements shall contain the terms and conditions as provided in Attachment E.

1.7 RFP Amendments

This RFP represents a written statement on the part of the NFTA/GBNRTC explaining the requirements, terms and conditions for submissions of proposals. The RFP covers this material as comprehensively and completely as it can at this time and thus
contains all representations of the NFTA/GBNRTC with respect to this matter. Any information or understandings, verbal or written, which are not contained within this RFP, or in later written addenda to this RFP, if issued, will be excluded from consideration in evaluating proposals. Any questions, objections or requests for revisions which Consultants may have should be submitted in writing and received at least one week prior to the proposal return date. If questions submitted to the NFTA/GBNRTC make issuance of addenda to this RFP necessary, such addenda will be distributed to all prospective Consultants that the NFTA/GBNRTC has knowledge of. However, it is the responsibility of the proposer to determine whether addenda have been issued and to acknowledge their receipt in its proposal.

1.8 Submittal of Proposals

Six (6) copies of the Technical Proposal, to be separately submitted in a sealed envelope, must be received by the date and time specified. The required proposal format is described in detail in Article 2 of this Attachment.

1.9 Procedures for Competitive Selection

This will be a two stage procurement process. Respondents will first be evaluated based on Technical Approach, Personnel Qualifications, and Experience as indicated in Attachment F. Respondents that fall within the competitive range after the first evaluation will be requested to submit a Cost Proposal in the format described in Attachment C. A preferred consultant will then be selected by the NFTA Board for contract award.

ARTICLE 2. Proposal

2.1 Scope of Work

2.1.1 Format

The proposal must be in compliance with the format described herein. The proposal shall be prepared on 8-1/2" x 11" paper bound on the long side. A limited number of fold-out sheets are acceptable. All pages are to be sequentially numbered. Unnecessarily elaborate proposals are not desired. Proposals should be concise, particularly with respect to past experience on other projects and the resumes of key personnel.
Related experience is essential. Be specific on past and current assignments. Define the firm's involvement and responsibilities in each project.

The Consultant's technical proposal shall be prepared using the following format to facilitate evaluation. If a Consultant fails to provide the information requested in one or more sections, the proposal may be considered nonresponsive.

2.1.2 Content

The proposal shall contain the following items:

Cover Letter
Proposed Scope of Work
Program Implementation
Program Organization
Work Location
Related Projects
Background Experience and Equipment Inventory
Key Personnel

2.1.2.1 Cover Letter

The proposal shall be submitted with a cover letter summarizing key points in the proposal. Any introductory remarks may also be placed in the cover letter. The cover letter should not exceed three pages in length.

2.1.2.2 Proposed Scope of Work

Develop a scope of work for the project using the information supplied in Attachments A & B.

2.1.2.3 Program Implementation

The Consultant shall describe its plans to develop and implement the proposed scope of work. This section should include a narrative description of the proposed methodology to accomplish the required tasks, as well as any innovations used on similar projects which may be applicable to the project.
2.1.2.4  Project Organization

This section of the proposal should be used to provide information on the prospective Consultant's organization and staffing of the project. It should briefly describe the Consultant's personnel and pertinent qualifications.

If the proposer is a "team" or "Joint Venture", the names of all participating firms must be submitted, accompanied with an explanation of the role each is to play in carrying out this project. Identify the proposed contractual arrangements by which the "team" is formed; for instance, subconsultant agreement, joint venture or other method. Indicate why these arrangements were selected. Please note that each subconsultant and joint venture associate must submit all pertinent data requested of the Prime Consultant.

An organization chart for the project is to be prepared. This chart should indicate the key personnel, their assignments and present employer.

Indicate which of the personnel identified on the organization chart are presently available for this project and their availability during the 12 months subsequent to a Notice to Proceed.

2.1.2.5  Work Location

If it is anticipated that any portion of the work on this project will be performed in a location other than Buffalo, identify the location where such work would be undertaken.

2.1.2.6  Related Projects

A list of projects accomplished by your firm that are similar to the proposed project should be provided. Each project description should include the degree of involvement by your firm. List those personnel proposed for the NFTA/GBNRTC project who were involved and in what capacity.

2.1.2.7  Background Experience and Equipment Inventory

This section should contain a brief history of your firm, the names of principals, a concise description of the types of work accomplished, an indication of current staff size and location and other relevant background information. Each proposed team member and/or subconsultant is to provide a similar description. It is requested that these descriptions be
concise and not simply a reprint of more voluminous promotional literature.

2.1.2.8 Key Personnel

A list of key personnel for this project must be submitted along with a resume for each person. A manpower plan, consistent with that prepared for the separate cost proposal, shall also be included to illustrate level of effort relative to staffing assignments of key personnel.

2.2 Project Cost Proposal

2.2.1 Format

A Project Cost Proposal will be requested from a subset of respondents based on initial technical rankings. The Cost Proposal is submitted in an envelope marked "CONFIDENTIAL". The Project Cost Proposal will be kept confidential throughout the negotiation process and will only be made public at such time as a recommendation is made to the Board of Commissioners for award of a contract. The proposer shall submit six (6) copies of this document.

2.2.2 Content

The Consultant's Project Cost Proposal shall be prepared using the following topic sequence to facilitate evaluation. If a Consultant fails to provide the information requested in one or more sections, the proposal may be considered non-responsive.

Manpower Plan/Direct Labor Costs
Project Overhead
Direct Non-Salary Costs
Fixed Fee
Proposal Summary

2.2.2.1 Manpower Plan/Direct Labor Costs

The Manpower Plan shall be used to describe the staffing for the project. The proposals shall identify the task, job classification and personnel which will be based in Buffalo and those which remain in other company offices. The location of any satellite offices must be noted. Similar information to the above must be prepared for each partner of the joint venture or of each subconsultant.
Direct Labor costs shall be direct salary costs of all professional and support employees assigned to this project on a full-time basis for all or part of the term of the Project, plus properly allocable salaries of all professional or subprofessional employees working part time on the project.

Professional and support employees shall include engineers, systems analysts, programmers and other employees who charge their time directly to this project. Officers and principals are not considered in this category and their costs are to be defined separately.

Salary costs shall not include amounts for vacation or holiday pay, Social Security, Unemployment Insurance, Workers' Compensation or other fringe benefits or payroll burden, which are part of overhead cost.

Survey personnel and other personnel of the Consultant who are covered by union contracts, will be paid the union rates applicable to them at the time work is performed. An estimate is required.

2.2.2.2 Project Overhead

The overhead cost applicable to direct labor may only be calculated as set forth herein. Overhead is applicable only to direct salary costs.

The Project Overhead shall be certified by an officer or principal of the firm and by the financial officer of the firm. It is also requested that in the Project Cost Proposal you indicate when your last government audit was performed, the accounting period covered and the name and address of the government agency which performed the audit. The Project Overhead shall be prepared on the basis of the Consultant's fiscal year. It should be noted that the project described in this RFP is funded by the Federal Highway Administration.

The overhead rates shall consist of (1) payroll burden and (2) nonpayroll burden (indirect expenses and general administrative expenses). These expenses are allocated as follows:

Payroll Burden

Payroll burden items are allocated pro-rata to all chargeable direct salaries and wages and include employee benefits such as vacations, holiday pay, sick leave, group life,
accident and health insurance, retirement annuity contributions, federal insurance contributions, unemployment taxes, and employee bonuses, but only if the bonuses are part of a company plan which does not constitute a "distribution of profits" under existing government regulations.

Allowable Indirect Expenses

The following represents typical items of non-payroll burden (indirect expense and general and administrative expense) which may be allocated to Project Overhead:

a. Indirect Salaries and Wages

For management and administration salaries, attendance at meetings and seminars, program orientation, education and training, stenographic, secretarial and clerical effort.

b. Indirect Materials and Supplies

Stationery and office supplies, technical and graphic arts, library books and periodicals.

c. Office Costs

Maintenance and repairs, janitorial, plant engineering and rearrangement activities.

d. Utilities

Heat, electric and water.

e. Travel Expense

Administrative - includes attendance at meetings and seminars.

f. Communications

Telephone, telegraph and postage.

g. Branch Office Expenses

Costs are allowable only to the extent necessary to perform services under this Agreement.

h. Buildings and Equipment Rentals

i. Accounting and Legal Fees
j. Personnel Recruitment, Medical and Nursing Expenses

k. Depreciation on furniture and fixtures, engineering equipment, company cars, etc.

l. Taxes

Only New York State property and franchise taxes will be allowed.

m. Insurance

All insurance as required by this Agreement and other necessary policies of insurance such as automobile insurance.

Non-Allowable Indirect Expenses

The allowability of costs and expenses shall be determined in accordance with the Federal Acquisition Regulations and New York State Procurement Regulations. The following list is not intended to be all inclusive; however, it does list typical non-allowable costs and expenses:

a. Federal and New York State Income Taxes

b. Advertising costs that do not include recruitment for the project.

c. Bad debts

d. Civil 1 Defense Funds and projects

e. Stock options, dividends or other financial costs

f. Administrative costs associated with pension and retirement funds

g. Contingencies

h. Contributions and donations

i. Entertainment expenses

j. Idle facilities

k. Fines and penalties

l. Losses on other contracts

m. Organization costs
n. Research and development

o. Deferred compensation, unless in effect prior to the execution of this Agreement

p. Any items for which direct charges are being claimed

2.2.2.3 Direct Non-Salary Costs

This category includes all expenses which are to be reimbursed when they are incurred. In general, items included as direct costs, which do not bear any overhead, are items such as direct costs for travel, telephone, communications, outside computer services, rental or purchase of items or equipment, subcontracts or consultants required for the project, etc.

The NFTA is exempt from payment of federal, state and local taxes. Requests for reimbursement to the NFTA/GBNRTC shall not include any New York State Tax as political subdivisions of New York State are not subject to this tax. No federal tax of any kind shall be included unless the federal law specifically levies such tax against purchases made by the political subdivisions of a state. The NFTA will furnish the necessary exemption certificates.

2.2.2.4 Fee

The fixed fee for profit is a lump sum amount which is negotiated, and is not altered during the term of the project unless a substantial change in the scope of services occurs.

2.2.2.5 Proposal Summary

A summary of both the technical proposal and the Project Cost Proposal shall be prepared using the form set forth in Section 2.3.

2.3 Proposal Forms

The forms as provided herein, which include Manpower-Plan, Key Personnel-Resume, Non-Collusive Proposal Certification and Debarment and Suspension Certifications, must be completed and submitted with the Consultant's proposal.
ARTICLE 3. Disadvantaged Business Enterprise Requirements

The proposer shall make good faith efforts, as defined in Appendix A to 49 CFR Part 26, to subcontract eighteen percent of the dollar value of the prime contract to small business concerns owned and controlled by socially and economically disadvantaged individuals (DBEs). In the event that the proposer qualifies as a DBE, the contract goal shall be deemed to have been met. Individuals who are rebuttably presumed to be socially and economically disadvantaged include women, Blacks, Hispanics, Native Americans, Asian-Pacific Americans, and Asian-Indian Americans. The apparent successful competitor will be required to submit any information concerning the DBEs that will participate in the contract within ten days after notification. The information will include: (1) the name and address of each DBE, (2) a description of the work to be performed by each named firm and (3) the dollar value of the work of the contract, (4) written documentation of the proposer’s commitment to use a DBE subcontractor whose participation it submits to meet a contract goal, and (5) written confirmation from the DBE that it is participating in the contract as provided by the proposer. If the names submitted include any firm not previously certified by the NFTA as an eligible DBE, said firm will be required to promptly initiate certification procedures and demonstrate to the satisfaction of the NFTA that said firm meets the federal eligibility standards. If the proposer fails to achieve the contract goals stated herein, it will be required to provide documentation demonstrating that it made good faith efforts in attempting to do so. A bid that fails to meet these requirements will be considered not responsive.

ARTICLE 4. Disadvantaged Business Enterprise Policy Statement

In accordance with the requirements of 49 CFR, Part 26, dated March 4, 1999 entitled, “Participation by Disadvantaged Business Enterprises in Department of Transportation Programs,” the Niagara Frontier Transportation Authority (NFTA), is committed to the development and implementation of an effective Disadvantaged Business Enterprise (DBE) Program.
The NFTA has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the NFTA has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the NFTA to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also the policy of the NFTA:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE program.

The Director of Equal Opportunity/Diversity Development has been delegated as the DBE Liaison Officer. In that capacity, the Director of Equal Opportunity/Diversity Development is responsible for implementing all aspects of the DBE Program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the NFTA in its financial assistance agreements with the Department of Transportation.

The NFTA has disseminated this policy statement to the Board of Commissioners and all the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for the NFTA on DOT-assisted contracts by inclusion in bid specifications, Requests for Qualifications and Requests for Proposals.
KEY PERSONNEL - RESUME

NAME:  

ANTICIPATED STARTING DATE:  

POSITION AND FIRM:  

PROFESSIONAL REGISTRATION:  

TOTAL PROFESSIONAL EXPERIENCE (YEARS):  

EDUCATION:  

CURRENT ASSIGNMENT AND LOCATION:  

PUBLICATIONS & PROFESSIONAL AFFILIATIONS:  

DIGEST SUMMARY OF EXPERIENCE IN THE PAST TEN YEARS:  

* RESPONDENTS PLEASE NOTE:  

1. Not more than one page per person.  

2. Be specific in the experience digest as to type of experience (design, construction, operations, etc.) and
briefly how it relates to the responsibilities of the position to be assumed.

**MANPOWER PLAN / DIRECT LABOR**

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<th>Firm Name</th>
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<th>Title/Grade</th>
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<td>Total</td>
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Total ______________
PROJECT OVERHEAD

Percentage of
Dollars     Direct

Salaries

Administrative salaries
Office and clerical salaries
Unallocated salaries, fee studies, etc.
New York State taxes
Accounting and legal fees
Rent and utilities
Office supplies and maintenance
Telephone and telegraph
Dues, meetings, subscriptions
Recruiting expenses
Insurance-public liability
Insurance-company automobiles
Insurance-professional liability and
valuable papers
Insurance-miscellaneous casualty
Branch office expenses
Depreciation, furniture, fixtures,
gineering
equipment, company cars, etc.       __________    __________

Subtotal

PAYROLL BURDEN ITEMS

Vacations
Holidays
Sick Leave
Federal Social Security
Federal Unemployment
State Disability
Workmens Compensation Insurance
Employee's group insurance
Employees medical insurance
Employees bonuses
Retirement contributions by
employee only

Subtotal

CERTIFICATIONS:

Total

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**PART I - GENERAL**

1. **Title of Proposal**

2. **Name and Business Address of Proposer**

3. **Name, Title and Address of Principal Bearing Technical Responsibility**

4. **Effective dates of Proposal**

5. **Brief Description of Work for which Proposal is Submitted**
### PART II - COST AND PRICE, ANALYSIS

(The information requested below must be complete when submitted with proposals for the procurement of professional services.)

<table>
<thead>
<tr>
<th>DETAIL DESCRIPTION</th>
<th>CONSULTING SERVICES</th>
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<tbody>
<tr>
<td>1 DIRECT LABOR</td>
<td>ESTIMATED HOURS</td>
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<tr>
<td></td>
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<tr>
<td>2 OVERHEAD COST ON DIRECT LABOR ABOVE</td>
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<td>4 FIXED FEE/PROFIT % of Item Nos. 1 and 2</td>
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<td>7 SPECIAL EQUIPMENT</td>
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<td>8 PRINCIPAL (if applicable)</td>
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<td>9 FIXED FEE/PROFIT</td>
<td>% of Item No. 5 &amp; 6</td>
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<td>11 TOTAL FIXED FEE/PROFIT (Items 4 &amp; 9)</td>
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<td>12 TOTAL ESTIMATED COST AND FIXED FEE/PROFIT</td>
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OVERHEAD RATE AND GENERAL AND ADMINISTRATIVE RATE INFORMATION

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<th>ACCOUNTING PERIOD COVERED</th>
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<td>PENDING</td>
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<th>b</th>
<th>NAME AND ADDRESS OF GOVERNMENT AGENCY MAKING AUDIT</th>
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<th>DO YOUR CONTRACTS PROVIDE NEGOTIATED OVERHEAD RATES (if yes, name Agency negotiating rates)</th>
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<th>(If no Government rates have been established furnish the following)</th>
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<th>BASE FOR TOTAL</th>
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EXHIBIT - SUBCONTRACT INFORMATION (if more space use blank sheets)

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<tr>
<th>NAME/ADDRESS OF SUBCONSULTANT(S)</th>
<th>SUBCONTRACTED WORK</th>
<th>SUBCONTRACT</th>
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<td>TYPE</td>
<td>AMOUNT</td>
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EXHIBIT B - OTHER DIRECT COSTS (Specify. If more space, use blank sheets.)

PART III - CERTIFICATION

The labor rates and overhead costs are current and other estimated costs have been determined by generally accepted accounting principles. Consultant represents: (a) that it has, has not employed or retained any company or person (other than a full-time bona fide employee working solely for the Consultant) to solicit or secure its contract, and (b) that it has, has not paid or agreed to pay any company or person (other than a full-time bona fide employee working solely for the Consultant) any fee commission, percentage or brokerage fee, contingent upon or resulting from the award of this contract, and agrees to furnish information relating to (a) and (b) above, as required by Contracting Officer. (For interpretation of the representation, including the term “bona fide employee,” see Code of Federal Regulations, Title 44, Part 150.)

Number of Consultant Employees

State incorporated in

<table>
<thead>
<tr>
<th>DATE</th>
<th>SIGNATURE AND TITLE OF AUTHORIZED REPRESENTATIVE OF PROPOSER</th>
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PART IV - REMARKS
Non-Collusive Proposal Certification

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

(1) The prices in this proposal have been arrived at independently, without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to opening, directly or indirectly, to any other proposer or to any competitor, and

(3) No attempt has been made or will be made by the proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

________________________________
Proposer

By: ___________________________________

Title: ________________________________
FORM A

TO BE COMPLETED BY ALL PROPOSERS WHOSE TOTAL PROPOSAL EXCEEDS $25,000.

CERTIFICATION OF LOWER-TIER PARTICIPANTS REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION

The Lower Tier Participant (potential third party contractor or potential subcontractor under a major third party contract), ______________________, certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(If the Lower Tier Participant (potential third party contractor or potential subcontractor under a major third party contract) is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this proposal.)

THE LOWER TIER PARTICIPANT (POTENTIAL THIRD PARTY CONTRACTOR OR POTENTIAL SUBCONTRACTOR UNDER A MAJOR THIRD PARTY CONTRACT) ______________________, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

________________________________________
Signature and Title of Authorized Official
AGREEMENT

Between
NIAGARA FRONTIER TRANSPORTATION AUTHORITY
And

"VENDOR"

Re: Project No. 09 Traffic Signals
Traffic Signal Optimization Program

NFTA Board Authorization  "date"
CONTENTS

ARTICLE                        PAGE
1.  General Description of Work to Be Performed  D-4
2.  Provision For Payment          D-5
3.  Retention                     D-8
5.  Indemnification and Consultant’s Liability D-9
6.  Covenant Against Payment of Contingent Fees D-10
7.  Extra Work                    D-10
8.  Notice of Potential Claim     D-11
9.  Submittal of Claims          D-11
10. Suspension, Abandonment, Change of Plan and Termination D-12
11. Termination For Default       D-14
12. Damages And Delays           D-15
13. Independent Contractor       D-15
14. Interest of Member of Congress D-16
15. Key Personnel                D-16
16. Patent Rights                D-16
17. NFTA Property                D-16
18. Reports                      D-17
19. Time Of Completion           D-17
20. Engineer's Decisions         D-17
21. Disputes                     D-17
22. Audit and Inspection         D-18
23. Changes                      D-19
24. Consultant's Employees       D-19
25. Insurance                    D-19
26. Disposition Of Plans, Estimates And Other Data D-20
27. Responsibility of Consultant D-20
28. Energy Efficiency            D-21
29. Disadvantaged Business Enterprises  D-21
30. Nondiscrimination  D-22
31. Assignment  D-22
32. Subcontractors/Subconsultants  D-22
33. Rules and Regulations on Prompt Payment  D-23
34. Final Acceptance  D-23

EXHIBIT

A  Prompt Payment Rules and Regulations
B  Scope of Services
C  Estimated Cost of Consultant Services
D  Overhead Expenses
E  Key Personnel - Resumè
AGREEMENT
Between

NIAGARA FRONTIER TRANSPORTATION AUTHORITY

And

CONTRACT NO. 09 Traffic Signals

PROJECT: Traffic Signal Optimization Program

THIS AGREEMENT made and entered into the _____ day of _______ 2009 by and between NIAGARA FRONTIER TRANSPORTATION AUTHORITY, a body corporate and politic, constituting a public benefit corporation, organized and existing pursuant to Chapter 717 of the Laws of 1967 of the State of New York, as amended, with its principal office for the transaction of business at 181 Ellicott Street, in the City of Buffalo, County of Erie, State of New York, (hereinafter referred to as the "NFTA"), as the legal representative of the Greater Buffalo-Niagara Regional Transportation Council("GBNRTC") and ____________________________ of the State of __________________________________________ having its principal office for the transaction of business at ____________________________________________________________ (hereinafter referred to as "Consultant").

WITNESSETH:

For and in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

ARTICLE 1. General Description of Work to Be Performed

1.1 The NFTA/GBNRTC agrees to and hereby does retain and employ Consultant, and Consultant agrees to perform such services hereinafter mentioned upon the following generally described project (hereinafter referred to as "Project"): Traffic Signal Optimization Program said services being more particularly described in Exhibit B, Scope of Services, attached hereto and made a part hereof. Consultant will not incur costs in
connection with this Agreement until a formal Notice To Proceed has been issued by the NFTA/GBNRTC.

1.2 The word "Engineer" where used herein, is understood to mean the Staff Director of the GBNRTC or his duly designated representative. The word "Contracting Officer" where used herein, is understood to mean the Chairman or Executive Director of the NFTA.

ARTICLE 2. Provision For Payment

The NFTA/GBNRTC agrees to pay the Consultant and the Consultant agrees to accept as full compensation for its services, payments in accordance with the following prescribed provisions:

2.1 Actual direct salary costs of all professional and support employees assigned to the project on a full-time basis for all or part of the term of this Agreement, plus properly allocable salaries of all professional or support employees working part-time on the project, all of which are not to exceed the maximum allowable hourly rates of pay as defined in the Manpower Plan, all subject to audit. Overtime premium shall be charged as a direct non-salary cost.

Consultant's professional and support employees, for the purposes of this Agreement, shall be defined as engineers, architects, designers, draftsmen and other employees, excepting officers, who charge their time directly for services under this Agreement.

Direct salary costs shall not include amounts for vacation, holiday pay, Social Security, unemployment insurance, workers' compensation or other fringe benefits.

2.2 Compensation for Officer/Principal salaries shall be at a reasonable rate. Payments for work by officers shall be allowable only if participation is essential to effective and economic completion of the project. Officer/Principal salaries are for production time (exclusive of time spent for general administration or supervisory activities) expenses or services in connection with this
Agreement. Salaries for time spent on administrative and supervisory activities in connection with the Agreement will not qualify as a direct salary cost but will be considered as part of the overhead cost.

2.3 If there are any direct salary rates in excess of those shown in the Manpower Plan, then the difference shall be completely borne by the Consultant without reimbursement by the NFTA/GBNRTC unless prior approval is obtained from the NFTA/GBNRTC for salary rate payments exceeding that allowed in the Manpower Plan.

2.4 The Federal Acquisition Regulations shall be the basis for the (a) determination, (b) negotiation or (c) allowance of direct non-salary costs incurred by the Consultant, subconsultant or subcontractor in fulfilling the terms of the Agreement, unless otherwise specifically and individually authorized by the NFTA/GBNRTC prior to incurrence of said costs. All project-related travel, other than local (Western New York area) travel reimbursed on a per mile basis, must have received prior written approval by the Authority to be considered for reimbursement.

2.5 Direct salary costs for work performed under this Agreement shall not include costs of preparing proposals to the NFTA for further work or negotiating ensuing contracts, or other costs normally allowable as overhead expenses.

2.6 An overhead allowance based upon actual expenses incurred by the Consultant during the term of the Agreement. The Federal Acquisition Regulations (FAR), Part 31, will provide the basis for determining the allowability of overhead costs elements. The overhead allowance shall be established as a percentage of actual direct salary costs.

2.7 For the purposes of the Agreement, an accounting period shall be the Consultant's fiscal year. For billing purposes, the latest available overhead percentages established by audit shall be applied
to the charges made under Article 2.1 of this Agreement to determine the charge to be made under Article 2.6. For the purpose of establishing the final payment under the Agreement, the actual allowable percentages determined by audit for each accounting period shall be applied to the accounting period.

2.8 Fee. The Fee shall be the agreed upon maximum sum of ________________________________ dollars. The Fee shall not be subject to audit.

2.9 In the event of any claims being made or any action being brought in connection with the project, the Consultant agrees to render assistance as required by the NFTA/GBNRTC. The Engineer may direct the Consultant in writing to render such assistance. In all cases for matters concerning additional services as described herein, the NFTA's directions shall be exercised by the issuance of an amendment or supplement to this Agreement.

2.10 It is agreed that for all services and work rendered or to be rendered under this Agreement, the Authority shall pay and the Consultant shall accept as full payment a not-to-exceed total payment estimated at ________.

2.11 The Consultant may submit monthly progress payment requests. These progress payment requests shall be based on actual allowable costs incurred during the billing period and shall be in accordance with this Article. The Consultant shall not, however, be reimbursed more at any time than would be due on an estimated percentage of completion basis as determined by the Engineer. To meet this requirement, the Consultant shall prepare and submit a monthly progress report, including status against the schedule identified in Section 2.1.2.2 and chart reflecting the relationship of the projected versus actual man hours and cost subject to the approval of the Engineer. If actual cash flow begins to exceed projected cash flow the Consultant must specifically address how it intends to complete its Scope of Services within the total project budget. As soon as it becomes
apparent to the Consultant that its Scope of Services cannot be completed within the total project budget then the NFTA/GBNRTC shall be notified in writing of the reasons for anticipating an overrun and an estimate of the costs necessary to complete the work. The Consultant shall not be reimbursed for costs in excess of the budgeted amount without written authorization from the NFTA/GBNRTC. This paragraph does not affect the Consultant's obligation to complete the work specified in this Agreement for the agreed amount.

The Consultant's monthly invoices shall be accompanied by statements prepared and certified by the Consultant setting forth the name and title of each person who was engaged in work under this Agreement during such respective month, the number of hours worked each day, the direct salary and any additional expenses attributable to the project. Each such invoice shall be submitted to the Engineer for approval. The final invoice shall be accompanied by a statement of the Consultant's Financial Officer or Certified Public Accountant certifying and scheduling the total costs attributable to this Agreement.

The Consultant may claim a proportion of the Fixed Fee with each progress payment request. The amount of the claim shall be in proportion to and computed as a percentage of the services performed.

2.12 All accounts of the Consultant and its subconsultants shall clearly identify the costs of all work performed under this Agreement and shall be subject to periodic and final audit by or at the direction of the NFTA/GBNRTC, the State, or Federal Government.

2.13 As a condition of payment of the monthly progress payments, the Consultant must submit a certification that all subconsultants have been paid monies due for work satisfactorily completed through the present monthly paid estimate. The consultant agrees to pay each subconsultant for satisfactory performance of its agreement no
later than thirty days from the receipt of each payment the Consultant receives from the NFTA.

ARTICLE 3. Retention

The NFTA/GBNRTC will retain as security ten percent (10%) of each progress payment until an amount equal to five percent (5%) of the total estimated cost of the Agreement has been retained. Said retention shall serve as security until the work is completed.

The Consultant may, at any time after fifty percent (50%) of the work has been completed, substitute the whole, or any portion of the amount so retained from payments to the Consultant, upon depositing with the NFTA, subject to prior approval by the Chief Financial Officer of the NFTA, (1) bonds or notes of the United States of America, or obligations, the payment of which is guaranteed by the United States of America; or (2) bonds or notes of the State of New York, or (3) bonds of any political subdivision in the State of New York. The Chief Financial Officer, from time to time, shall collect all interest and income on the obligations so deposited, and shall pay the same, when and as collected, to the Consultant who deposited such obligations. When the deposit is in the form of coupon bonds, the coupons shall be delivered to the Consultant as they respectively come due. The Consultant shall not be entitled to interest or income on, or the coupons of, any obligations so deposited, the proceeds of which shall have been used or applied by the NFTA therein pursuant to the terms of this Agreement.

The Chief Financial Officer shall have the right to designate an escrow agent or agents for the purpose of receipt of such securities to be deposited in place of the retention.

The Consultant shall pay directly to the NFTA, or the duly designated escrow agent or agents, a service charge for receiving, handling and disbursing funds and coupons.
The NFTA may, at its discretion, retain five percent (5%) of the estimated amount of all Supplemental Agreements.

If so requested in an invoice and upon completion of the work by the Consultant and acceptance by the NFTA/GBNRTC, the NFTA shall deliver to the Consultant 50% of the monies or bonds held as retention. Upon completion of Final Audit by the NFTA, State and/or Federal Government of the Consultant's records and receipt of an invoice, the NFTA/GBNRTC shall deliver to the Consultant the remainder of the monies or bonds held as retention, as well as any other monies due but not paid to the Consultant.

In the event the Consultant has retained any amounts from any of its subconsultants for work performed pursuant to this Agreement said retention must be paid to the subconsultant no later than thirty days after the subconsultant’s work has been satisfactorily completed.

**ARTICLE 4. Documents Forming The Contract**

The Contract Document shall be the Proposal Instructions, Proposal Forms, this Agreement, the accompanying Exhibits, and any addenda.

**ARTICLE 5. Indemnification and Consultant's Liability**

5.1 The Consultant agrees to indemnify, defend and save harmless the NFTA/GBNRTC from and against all loss and damage, claims and demands, costs and charges for injuries to person or property or other causes that may arise or accrue out of the negligent performance of the work by the Consultant, or which may be caused by any negligence or default of the Consultant, its agents, servants or subconsultants.

5.2 Consultant shall be responsible for all damage to life and property due to negligent activities of the Consultant, its subconsultants, agents or employees in connection with its services under this Agreement. The Consultant specifically agrees that its subcontractors, subconsultants, agents, servants and employees shall possess the
experience, knowledge and character necessary to qualify them individually for the particular duties they perform. Further, it is expressly understood that the Consultant shall indemnify, defend and save harmless the NFTA/GBNRTC and Federal Government from claims, suits, actions, damages and costs of every name and description resulting from the negligent performance of the services of the Consultant under this Agreement, and such indemnity shall not be limited by reason of enumeration of any insurance coverage herein provided.

5.3 Negligent performance of service, within the meaning of this Article, shall include, in addition to negligence founded upon tort, negligence based upon the Consultant's failure to meet professional standards and resulting in obvious or patent errors in the performance of the work.

5.4 Nothing in this Article or in this Agreement shall create or give to third parties any claim or right of action against the Consultant or the NFTA/GBNRTC, State, or the Federal Government beyond such as may legally exist irrespective of this Article or this Agreement.

ARTICLE 6. Covenant Against Payment of Contingent Fees

The Consultant warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Consultant for the purpose of securing business. Breach of this warranty may result in annulment of this contract without liability or, in the discretion of the NFTA/GBNRTC, a deduction from the contract price of the full amount of such commission, percentage, brokerage or contingent fee.

ARTICLE 7. Extra Work

If the Consultant is of the opinion that any work it has been directed to perform is beyond the
scope of this Agreement and constitutes extra work, it shall provide written notification to the Engineer and the NFTA prior to commencing the work pursuant to Article 8. The NFTA/GBNRTC shall determine whether or not such work is, in fact, beyond the scope of this Agreement and constitutes extra work.

In the event that the NFTA/GBNRTC determines that such work does constitute extra work, it shall provide extra compensation to the Consultant based upon a fair and equitable basis. A Supplemental Agreement providing for such compensation for extra work shall be executed by Consultant and NFTA and be approved by appropriate Federal and State officials prior to the Consultant undertaking the extra work. Payment of an additional fixed fee shall not be authorized unless there is a substantial change in the scope of work.

ARTICLE 8. Notice of Potential Claim

8.1 The Consultant shall not be entitled to additional compensation otherwise payable for any act or failure to act by the NFTA/GBNRTC, the happening of any event or occurrence, or any other cause, unless it shall have given the NFTA/GBNRTC a written notice of potential claim.

8.2 A written notice of potential claim must be submitted within thirty days from the date the claim arose.

8.3 The written notice of potential claim shall set forth the reasons the Consultant believes additional compensation will or may be due, the nature of the costs involved and, insofar as is possible, the amount of the potential claim. If the claim is based upon an act or failure to act on the part of the NFTA/GBNRTC, the written notice of potential claim shall be given to the NFTA prior to the time the Consultant has started performance of the work giving rise to the potential claim for additional compensation.

8.4 It is the purpose of this Article that differences between the parties arising under and
by virtue of this Agreement shall be brought to
the attention of the NFTA/GBNRTC at the earliest
possible time in order that such matters may be
settled, if possible, or other appropriate action
promptly taken.

ARTICLE 9. Submittal of Claims

9.1 All claims shall be submitted prior to or at the
same time that the Consultant advises the
NFTA/GBNRTC that its work efforts have been
completed pursuant to Article 34. Any claims not
submitted prior to final acceptance shall be
deemed to be waived by the Consultant.

9.2 Claims filed by the Consultant shall be in
sufficient detail to enable the NFTA/GBNRTC to
ascertain the basis and amount of said claims.
It will be the responsibility of the Consultant
to furnish, when requested by the NFTA/GBNRTC,
such further information and details as may be
required to determine the facts or contentions
involved in the claims. Failure to submit such
information and details will be sufficient cause
for denying the Consultant's claims.

ARTICLE 10. Suspension, Abandonment, Change of Plan and
Termination

10.1 The NFTA/GBNRTC may, at any time and for any
reason, direct the Consultant to stop work under
this Agreement for a period of time. Such
direction shall be given in writing and shall be
effective upon receipt by the Consultant. The
NFTA/GBNRTC will attempt to give advance notice
of up to ten (10) days if possible. The
Consultant will suspend its services, without
compensation for the suspended period, unless
otherwise directed by the NFTA/GBNRTC. The period
during which work shall have been stopped shall
be deemed added to the time of performance. If
the work is suspended for more than three (3)
months or abandoned in whole or in part, the
Consultant shall be paid its compensation for
services performed prior to receipt of written
notice from the NFTA/GBNRTC for such suspension
or abandonment, together with reimbursable
expenses then due and all termination expenses resulting from such suspension or abandonment. If the work is resumed after being suspended for more than three (3) months, the Consultant's compensation shall be subject to renegotiation. Upon the resumption of the work under the Agreement, the Consultant shall resume its services under this Agreement until the Agreement is completed and accepted. In all cases provided for in this Agreement for renegotiation of the Agreement as above described, the new terms and conditions shall be documented by the execution of a Supplemental Agreement.

10.2 If the NFTA/GBNRTC amends or changes the work and the Consultant is of the opinion that extra work is made necessary as a result thereof, the provisions covering extra work in this Agreement with respect to additional compensation shall apply. If the NFTA/GBNRTC changes the work in such a manner as to reduce work to be accomplished under this Agreement, an equitable adjustment shall be made in the contract price or time of performance or both through execution of a Supplemental Agreement.

10.3 The NFTA/GBNRTC has the right to terminate this Agreement at its pleasure and make settlement with Consultant upon an equitable basis as determined by the NFTA/GBNRTC, who shall fix the value of the work performed by Consultant prior to the termination of this Agreement and termination expense. In determining the value of the work performed, the NFTA/GBNRTC shall consider the following:

10.3.1 The ratio of the amount of work performed by Consultant prior to the termination of the Agreement to the total amount of work contemplated by this Agreement, less any payment previously made.

10.3.2 The amount of the expense incurred by the Consultant in performing the work performed prior to the termination, in proportion to the amount of expense to which the Consultant would have incurred had it been allowed to complete the
The actual cost incurred by the Consultant plus a portion of the Fixed Fee equal to the percentage of work completed.

In determining the value of the work performed by the Consultant prior to the termination, no consideration will be given to profit which the Consultant might have made on the uncompleted portion of the work. Termination under this section shall not give rise to any claim against the NFTA/GBNRTC for damages or for compensation in addition to that provided hereunder.

In the event that this Agreement is terminated pursuant to this Article, the Consultant, within ten (10) days of termination, shall make available to the NFTA/GBNRTC all data, plans and materials.

The Consultant shall be considered in default of this Agreement and such default will be considered as cause for the NFTA/GBNRTC to terminate the contract, if the Consultant:

Fails to begin the work under the contract within ten calendar days of the "Notice to Proceed".

Fails to perform the work or any part thereof or fails to provide sufficient workers to assure completion of work within the time specified in the Agreement.

Performs the work unsuitably or neglects or refuses to correct unacceptable and unsuitable work.

Discontinues the performance of the work.

Fails to resume work which has been discontinued within a reasonable time after notice to do so.

Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency.
Makes an assignment for the benefit of creditors.

For any other cause whatsoever, fails to carry on the work in an acceptable manner.

11.2 Should the Engineer consider the Consultant in default of the Agreement for any reason hereinabove, the NFTA/GBNRTC shall immediately give written notice to the Consultant as to the reasons for considering the Consultant in default and the NFTA's intentions to terminate the Agreement.

11.3 If the Consultant, within a period of ten (10) days after such notice, does not proceed in accordance therewith, then the NFTA will, upon written notification from the Engineer of the facts of such delay, neglect or default, and the Consultant's failure to comply with such notice, have full power and authority to take the prosecution of the work out of the hands of the Consultant.

11.4 In the event the Consultant is declared in default and the Agreement is terminated, said Consultant shall deliver all data and records pertaining to the project to the NFTA/GBNRTC within ten (10) days of receipt of said termination.

11.5 The expense of completing the work specified in the Scope of Services, together with a reasonable charge for managerial and administrative services, will be charged to the Consultant and the expense so charged will be deducted by the NFTA/GBNRTC out of such monies as may be due or may at any time thereafter become due to the Consultant. In the event such an expense is in excess of the sum which otherwise would have been payable to the Consultant under this Agreement, then the Consultant shall promptly pay the amount of such excess to the NFTA/GBNRTC upon notice from the NFTA/GBNRTC of the excess so due. The NFTA/GBNRTC may, in its sole discretion, withhold all or any part of any progress payments otherwise due the Consultant until completion and final settlement of the work required to be performed pursuant to this Agreement.
ARTICLE 12. Damages And Delays

Consultant agrees that no charges or claim for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the services specified in the Agreement. Such delays or hindrances, if any, shall be compensated for by an extension of time for such reasonable period as the NFTA/GBNRTC may decide; it being understood, however, that permitting the Consultant to proceed to complete any services or any part of them after the date of completion or after the date to which time of completion may have been extended, shall in no way operate as a waiver on the part of the NFTA/GBNRTC of any of its rights herein.

ARTICLE 13. Independent Contractor

Consultant, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself consistent with such status, that it will neither hold itself out as nor claim to be an officer or employee of the NFTA/GBNRTC, the Federal Government or State by reason hereof, and that it will not make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the NFTA/GBNRTC, the Federal Government or State, including but not limited to, workers' compensation coverage, unemployment insurance benefits, Social Security coverage or retirement membership or credit.

ARTICLE 14. Interest of Member of Congress

No member of or delegate to Congress shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

ARTICLE 15. Key Personnel

The Consultant and each of the subconsultants agree that the key personnel identified at Exhibit E will be assigned to the project through completion of the project. Any substitution of
the Consultant's key personnel requires the prior approval of the NFTA/GBNRTC.

ARTICLE 16. Patent Rights

Any patentable result arising out of this Agreement, as well as all information, designs, specifications, know-how, data and findings shall be made available without cost to the NFTA/GBNRTC, the State, Federal Government and/or their licensees for public use.

ARTICLE 17. NFTA Property

Title to property furnished to Consultant for its use shall remain with the NFTA/GBNRTC. Title of all other property purchased by the Consultant, for which the Consultant is reimbursed as a direct item of cost under this Agreement, shall pass to and vest in NFTA/GBNRTC upon delivery of such property by the vendor. All such property is hereinafter referred to as "NFTA/GBNRTC Property."

NFTA/GBNRTC Property shall include, but not be limited to, the following items: office furniture, non-expendable office equipment, technical books, publications and reports. The Consultant agrees to account for all NFTA/GBNRTC Property and to maintain a suitable inventory control system acceptable to the NFTA/GBNRTC. The NFTA/GBNRTC Property provided or furnished shall be used only for the performance of work under this Agreement.

The Consultant shall maintain and administer in accordance with sound industrial practices, a program for the maintenance, repair, protection and preservation of NFTA/GBNRTC property so as to assure full availability and usefulness for the performance of this Agreement.

Upon completion of this Agreement, or at such earlier date as may be fixed by the NFTA/GBNRTC, the Consultant shall submit to the NFTA/GBNRTC inventory schedules covering all items of NFTA/GBNRTC Property not consumed in the performance of the work. All such NFTA/GBNRTC
Property shall be made available by the Consultant to the NFTA/GBNRTC immediately thereafter.

ARTICLE 18. Reports

The Consultant shall prepare monthly and quarterly progress reports, schedule status reports, as well as other reports as required by the NFTA/GBNRTC to insure the timely flow of information to the NFTA/GBNRTC, State of New York and the Federal Government and to assist in the preparation of reports required by the Federal Government.

ARTICLE 19. Time Of Completion

The Consultant agrees to complete the services in a manner satisfactory to the NFTA/GBNRTC within the time periods established in Exhibit B.

ARTICLE 20. Engineer's Decisions

The extent and character of the work to be done by the Consultant shall be subject to the general supervision, direction, control and approval of the Engineer. In performing the work, the Consultant shall conform to all orders, directives and requirements of the Engineer, to the extent not inconsistent with the Consultant's status as a professional and its exercise of independent judgment.

ARTICLE 21. Disputes

21.1 Any dispute arising under this Contract which is not disposed of by agreement shall be decided by the Contracting Officer who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Consultant. The decision of the Contracting Officer shall be final and conclusive unless within thirty (30) days from the date of receipt of such decision, the Consultant mails or otherwise furnishes to the NFTA/GBNRTC a written appeal of the original finding addressed to the NFTA requesting a hearing on the claim.
If the Consultant appeals the Contracting Officer's decision, the NFTA/GBNRTC shall appoint a Hearing Officer and the Consultant shall be afforded an opportunity to be heard and to offer evidence in its appeal. The Consultant hereby agrees that further recourse from the Hearing Officer's decision shall be limited to that available under Article 78 CPLR.

The decision of the Hearing Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith or not supported by substantial evidence.

21.2 Pending final decision of the disputes hereunder, the Consultant shall proceed diligently with the performance of the Contract and in accordance with the decision of the Contracting Officer.

ARTICLE 22. Audit and Inspection

Consultant shall maintain and require each of its subconsultants to maintain accurate records, documents, and other evidence in accordance with sound accounting procedures and practices, of all expenditures made and all costs, liabilities and obligations incurred during the performance of this Agreement.

The Consultant and its subconsultants shall preserve and make available their records for a period of six (6) years from the date of final payment under this Agreement. The Consultant shall permit, and shall require its subconsultants to permit, the NFTA/GBNRTC and their authorized representatives, to inspect all work, materials, payrolls, records of personnel, invoices of materials and other relevant equipment, data and records; and to audit the books, records and accounts of Consultant pertaining to the Agreement and the development of the Project.
ARTICLE 23. Changes

The Contracting Officer may, at any time, by written order, issue additional instructions, require additional work or services covered by the Agreement. If such changes cause a material increase or decrease in the amount or character of the work to be done under the Agreement, an equitable adjustment of the amount of the compensation to be paid the Consultant shall be made and the Agreement shall be modified in writing accordingly. Any claim for adjustment under this Article must be asserted in writing within thirty (30) days from the date of delivery to the Consultant of notification of change, unless the Contracting Officer shall grant a further period of time prior to the date of final payment under this Agreement. Nothing provided in this Article shall excuse the Consultant from proceeding with the performance of the work so changed.

ARTICLE 24. Consultant's Employees

The Consultant shall be required to remove any employee from the project whom the Engineer finds objectionable.

ARTICLE 25. Insurance

25.1 Consultant agrees to procure and maintain, for the period specified in section 25.3 below, insurance of the kinds and in the amounts hereinafter provided covering all operations under this Agreement whether performed by it or by subconsultants. The policies shall provide for a thirty (30) day notice to the NFTA prior to termination, cancellation or change.

25.2 Prior to the execution of the Agreement, the Consultant shall supply the NFTA/GBNRTC with a certificate(s) of insurance providing evidence of insurance coverage as specified below:

25.2.1 General Liability Insurance in a comprehensive form including coverage for property damage,
bodily injury, personal injury and completed operations with a single limit of at least $1 million per occurrence and $2 million aggregate. The certificate shall name the NFTA and GBNRTC as additional insured.

25.2.2 If any motor vehicle is used in the work, auto liability insurance covering bodily injury and property damage with a minimum combined single limit of $1 million. The certificate shall name the NFTA and GBNRTC as additional insured.

25.2.3 Workers' Compensation and Employer's Liability in accordance with applicable laws of the State of New York.

25.2.4 Excess Liability - umbrella form - $1 million.

25.3 Each insurance policy described above shall be kept in force for the period specified below:

25.3.1 General Liability Insurance shall be kept in force until receipt of final payment by the Consultant.

25.3.2 Workers' Compensation and Employer's Liability Insurance shall be kept in effect until receipt of final payment by the Consultant.

25.3.3 Any other required insurance shall be maintained during the term of the Agreement.

25.4 Copies of required policies shall be made available to the NFTA/GBNRTC upon request.

ARTICLE 26. Disposition Of Plans, Estimates And Other Data

At the time of completion of the work, Consultant shall deliver to the NFTA/GBNRTC all survey notes, computations, maps, tracings and all other documents and data pertaining to the work or to the project, which material at all times shall be the property of the NFTA/GBNRTC.

ARTICLE 27. Responsibility of Consultant

Notwithstanding any review, approval, acceptance or payment by the Contracting Officer of the Authority or his designees, the Consultant shall
be responsible for the professional and technical accuracy of all work furnished under this Agreement, and shall, at Consultant's expense and without additional cost or fee, correct or revise any errors or deficiencies. The Consultant shall also be liable to the Authority for all costs to it of any kind caused by, or resulting from, the Consultant's negligent performance of the work under this Agreement. The rights and remedies of the Authority provided in this Article are in addition to any other rights or remedies provided by law or under this Agreement.

Article 28. Energy Efficiency

The Consultant must recognize the mandatory standards and policies relating to energy efficiency that are contained in the New York State Energy Conservation Plan issued in accordance with the Energy Policy and Conservation Act.

ARTICLE 29. Disadvantaged Business Enterprises

The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the NFTA/GBNRTC deems appropriate. The Consultant agrees to insert this clause in all subcontracts to this contract.

ARTICLE 30. Nondiscrimination

The Consultant shall not discriminate against any individual on the grounds of race, color or national origin. The Consultant shall comply with 49 CFR Part 21.

ARTICLE 31. Assignment
Assignment of this Agreement shall not relieve the Consultant from its responsibility for the performance of the work hereunder in accordance with the terms hereof nor from its responsibility for the performance of any other obligations hereunder, including reimbursement of all subcontractors. This Agreement may not be assigned without the prior written approval of the NFTA/GBNRTC.

ARTICLE 32. Subcontractors/Subconsultants

No part of the Agreement shall be sublet and no work shall be performed under any subcontract without prior written approval of the proposed subcontract by the NFTA. All subcontracts hereunder shall contain all of the provisions described in Attachment E and Articles 3-34 hereof.

The Consultant shall not replace any subcontractor/subconsultant without prior written consent of the Authority, or permit any such subcontract work to be assigned or transferred, or allow any portion of the work to be performed by anyone other than an approved subcontractor/subconsultant.

ARTICLE 33. Rules and Regulations on Prompt Payment

The Authority Rules and Regulations on Prompt Payment are incorporated herein by reference and a copy is attached as Exhibit A.

ARTICLE 34. Final Acceptance

When the Consultant's work efforts have been completed, the Consultant shall so advise the NFTA/GBNRTC in writing. Within thirty (30) days of receipt of such notice, the NFTA/GBNRTC shall give the Consultant written notice of Final Acceptance or shall advise the Consultant in writing of any work efforts which have yet to be completed. Upon completion of such work efforts, the Consultant shall again notify the NFTA/GBNRTC and within the above specified time period, the NFTA/GBNRTC shall give the Consultant notice of Final Acceptance or notice that the specified
unfinished work efforts have not yet been completed. In the latter instance, the foregoing procedure with respect to such specified unfinished work efforts will be repeated.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date or dates set forth above.

( SEAL ) 

NIAGARA FRONTIER TRANSPORTATION AUTHORITY 

BY: _____________________________________________

Lawrence Meckler, Executive Director

( SEAL ) 

CONSULTANT

BY: _____________________________________________

TITLE:

STATE OF NEW YORK )
COUNTY OF ERIE )
CITY OF BUFFALO )

On this ___ day of ___________________ 2009, before me the subscriber, personally came Lawrence Meckler, to me known, who being by me duly sworn, did depose and say that he is the Executive Director of the NFTA and executed the foregoing Instruments, pursuant to a Resolution duly adopted by the Board of Commissioners of the NFTA.

___________________________________________
Notary Public
ACKNOWLEDGEMENT OF CONSULTANT - IF A CORPORATION

STATE OF  )
COUNTY OF  ) SS:

On this ___ day of ____________, 2009, before me personally came and appeared ____________________________ to me known, who, being duly sworn, did depose and say that he/she resides at __________________________________________________

____________________________________________________________

that he/she is the __________________________ of _________________________

____________________________________________________________, the corporation described in and which executed the foregoing Agreement; that he/she has executed the Agreement pursuant to an order of the directors of said Corporation.

________________________________
Notary Public

ACKNOWLEDGEMENT OF CONSULTANT - IF A PARTNERSHIP

STATE OF NEW YORK  )
COUNTY OF ERIE  ) SS:

On this ___ day of ____________, 2009, before me personally came ________________________________, to me known to be the person who executed the foregoing instrument, and who, being duly sworn by me, did depose and say that he/she is a member of the firm of ________________________________ a co-partnership, and that he/she executed the foregoing Agreement in the firm name of ________________________ and that he/she had authority to sign the same, and he/she acknowledged to me that he executed the same as the act and deed of said firm for the uses and purposes therein attached.

________________________________
Notary Public
ACKNOWLEDGEMENT OF INDIVIDUAL

STATE OF  
COUNTY OF  
CITY OF  

On this ___ day of _____________, 2009, before me the subscriber, personally came _______________, to me known, who being by me duly sworn, did depose and say that he/she executed the foregoing Instruments.

_____________________________  
Notary Public
EXHIBIT A

AUTHORITY PROMPT PAYMENT RULES AND REGULATIONS

The following prompt payment rules and regulations set forth provisions which are intended to improve relationships between the Authority and its contractors, vendors and all those providing services or supplies through contractual relationship with the Authority. These rules and regulations are promulgated consistent with directives set forth in the Public Authorities Law Section 2880.

1. Definitions. As used in these rules and regulations, the following terms shall have the following meanings unless the context shall indicate other or different meaning:

   (a) "Authority" means Niagara Frontier Transportation Authority and its subsidiary corporations.

   (b) "Contract" means an enforceable agreement entered into between the Authority and a contractor.

   (c) "Contractor" means any person, partnership, private corporation or association:

       (i) selling materials, equipment or supplies, or leasing property or equipment to the Authority;

       (ii) constructing, reconstructing, rehabilitating or repairing buildings, highways or other improvements for or on behalf of the Authority; or

       (iii) rendering or providing services to the Authority pursuant to a contract.

   (d) "Designated payment office" means the office designated by the Authority to which a proper invoice is to be submitted by a contractor.

   (e) "Prompt payment" means payment of a debt due and owing by the Authority before interest accrues thereon pursuant to these regulations.
(f) "Proper invoice" means a written request for a contract payment that is submitted by a contractor setting forth the description, price and quantity of goods, property, or services delivered or rendered, in such form and supported by such other substantiating documentation as the Authority may reasonably require.

(g) "Receipt of an invoice" means (i) the date on which a proper invoice is actually received in the designated payment office, or (ii) the date on which the Authority receives the purchased goods, property, or services covered by the proper invoice, whichever is later.

(h) "Set-off" means the reduction by the Authority of a payment due to a contractor by an amount equal to the amount of an unpaid legally enforceable debt owed by the contractor to the Authority.

(i) "Statement" means the rules and regulations adopted herein by the Authority

2. Payment Request Procedure. The contractor shall submit a proper invoice to the Authority's designated payment office. Said invoice shall be date stamped with the date the invoice is received.

3. Interest Eligibility and Computation.

(a) In order for the Authority not to be liable for the payment of interest, contract payment must be made within thirty calendar days, excluding legal holidays, after the receipt of an invoice for the amount of the contract payment due; except when the contract payment is of the type where the facts and conditions are as defined pursuant to Sections 5 and 6 of these rules and regulations. Any time taken to satisfy or rectify any of the facts or conditions described in Section 5 shall extend the date by which contract payment must be made in order for the Authority not to become liable for interest payments by an equal period of time.
(b) Notwithstanding any other provision of law to the contrary, interest shall be computed at the rate equal to the rate set by the State Tax Commission for corporate taxes pursuant to paragraph one of subsection (e) of section one thousand ninety-six of the Tax Law.

(c) Payments shall be made only when the interest amount for the transaction exceeds ten dollars ($10). Each invoice or payment on a voucher is a transaction.

4. Sources of Funds. All interest due and payable to contractors under these regulations will be paid from available revenue sources including the Authority general funds.

5. Extensions. The facts and conditions which will reasonably justify extension of the date by which contract payment must be made in order for the Authority not to become liable for interest payments are as follows:

   (a) In accordance with specific statutory or contractual provisions, if payment must be preceded by an inspection period or by an audit to determine the resources applied or used by the contractor in fulfilling the terms of the contract.

   (b) If the necessary state government appropriation required to authorize payment has not been enacted, or when statutory, contractual or grant agreement provisions provide for prior federal review before the use of federal funds for payment.

   (c) If payments must be processed through the State Department of Audit and Control, the State Department of taxation and Finance, or some other entity not under the Authority's control.

   (d) If the date by which contract payment must be made is modified in accordance with Section 6 herein.
(e) If the contracts provide that the contractor will be paid at predetermined intervals.

6. Defects or Improprieties. The Authority shall have fifteen calendar days after receipt of an invoice by the Authority at its designated payment office to notify the contractor of:

(a) defects in the delivery goods, property, or services,

(b) defects in the invoice, or

(c) suspected improprieties of any kind; and the existence of such defects or improprieties shall prevent the commencement of the time period specified in Section 3. When the Authority fails to notify a contractor of such defects or suspected improprieties within fifteen calendar days of receiving the invoice, the number of days allowed for payment of the corrected proper invoice will be reduced by the number of days between the fifteenth day and the day that notification was transmitted to the contractor. If the Authority in such situations, fails to provide reasonable grounds for its contention that a defect or impropriety exists, the date by which contract payment must be made in order for the Authority not to become liable for interest payments shall be calculated from the date of receipt of an invoice.

7. Public Service Law. Notwithstanding any provision of the public service law or any tariffs promulgated pursuant to the law to the contrary, the provisions of this section shall provide the sole basis for determining and making interest payments on invoices submitted by public utilities.

8. Public Access. There shall be public access as follows:

(a) Copies of these rules and regulations and the annual report shall be available as public record.
(b) Each contractor doing business with the Authority shall be given a copy of these rules and regulations.

9. Inapplicability of section. The provisions of this section shall not apply to payments due and owing:

   (a) under the eminent domain procedure law;

   (b) as interest allowed on judgments rendered by a court pursuant to any provision of law other than those contained in this section;

   (c) to the federal government; to any state agency or its instrumentalities; to any duly constituted unit of local government including, but not limited to, counties, cities, towns, villages, school districts, special districts, or any of their related instrumentalities; to any other public authority or public benefit corporation; or to its employees when acting in, or incidental to, their public employment capacity;

   (d) in situations where the Authority exercises a legally authorized set-off against all or part of the payment due.

10. Court Action. The liability to make interest payments pursuant to these rules and regulations, shall not extend beyond the date of notice of intention to file a claim, the date of notice of claim, or the date commencing a legal action for the payment of such interest, whichever come first.

11. Incorporation. These rules and regulations shall be incorporated into and made a part of all contracts.
ATTACHMENT E

SUBCONTRACT FOR SERVICES
between

________________________________________

and

________________________________________

Project No.

This SUBCONTRACT made this ___ day of ______, 20___,

between _______________________________________________________
(hereinafter referred to as ("Consultant") and

__________________________
(hereinafter referred to as ("Subconsultant").

WITNESSETH:

WHEREAS, the Consultant has entered into, or proposed to enter into, an Agreement with the NIAGARA FRONTIER TRANSPORTATION AUTHORITY (hereinafter referred to as "NFTA") for the performance of professional services relating to the following generally described Project, (hereinafter referred to as "Project"):__________________________

a copy of the said Agreement (hereinafter referred to as "Agreement") being appended hereto and made a part hereof;

WHEREAS, the Consultant desires to retain the Subconsultant to render and perform a portion of the services and engineering work herein described on the terms and conditions in this Subcontract,

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter contained, the parties do hereby agree as follows:

ARTICLE 1 - SCOPE OF SERVICES
The Subconsultant shall perform the services described in Appendix "A" attached hereto and made a part hereof. The Subconsultant's services shall be performed at such times and in such manner as the Consultant shall direct to permit the Consultant to comply with the Agreement.
ARTICLE 2 - PROVISION FOR PAYMENT

The Subconsultant shall be compensated and paid for its services in an amount not to exceed $__________ to be computed in accordance with the basis of compensation and reimbursement of costs and expenses applicable to the Consultant as defined and described in ARTICLE 2, of the Agreement. All compensation to the Subconsultant shall be subject to the audits, adjustments, limitations, and determinations which apply to the Consultant under the Agreement.

The Subconsultant shall be subject to audit, inspections, approvals, and other determinations of the NFTA and others respecting direct and indirect costs, and the allowability thereof, and, at the request of the Consultant, the Subconsultant shall make available to the NFTA at all reasonable times the pertinent records of the officers for such purpose.

The Subconsultant shall be subject to the same determinations, certifications, and approvals respecting technical salary rates, compensation of officers, principals, and per diem consultants; unusual costs; deferred compensation; severance pay; depreciation charges; bonuses; and completion and partial payment billings. Wherever feasible, the Subconsultant's contact with the NFTA shall be through the Consultant. The Subconsultant shall provide all data required to permit Consultant to comply with the Agreement.

Payments made to Subconsultant for costs subsequently determined to be unallowable shall be withheld by Consultant from subsequent payments to the Subconsultant.

ARTICLE 3 - REFERENCED PROVISIONS

ARTICLES 3 through 34, inclusive, of the Agreement appended hereto shall apply to and are hereby made a part of this Subcontract, and wherever in said ARTICLES there is a reference to the Consultant in the Agreement, such references shall be deemed to include the Subconsultant.

Wherever in said Articles there is a reference to the NFTA, Engineer, or State Agencies, Federal Agencies, or officers, such reference shall be deemed to mean Consultant and wherever in said Articles and other provisions where there is a reference to the Consultant and Agreement, such reference shall be deemed to mean the Subconsultant and this Subcontract.
ARTICLE 4 - EFFECTIVE DATE OF SUBCONTRACT

This Subcontract shall not become effective until the consent of the NFTA, and any other authorization required under the Agreement or by law, have been given.

IN WITNESS WHEREOF, the parties hereto have executed this Subcontract the day and year first above written.

___________________________________________________________________________
CONSULTANT
By: ______________________________________________________________________

ATTEST: ___________________________________________________________________
Secretary

___________________________________________________________________________
SUBCONSULTANT
By: ______________________________________________________________________

ATTEST: ___________________________________________________________________
Secretary
PROPOSAL EVALUATION FORM

Proposals will be reviewed by the Evaluation Team and rated based on the following criteria.

Part B - Numerical Evaluation

<table>
<thead>
<tr>
<th>Evaluation Criteria</th>
<th>Rating (Max.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Technical Approach (includes Project Organization and Schedule)</td>
<td>______ (15)</td>
</tr>
<tr>
<td>2. Personnel Qualifications</td>
<td>______ (35)</td>
</tr>
<tr>
<td>3. Experience</td>
<td>______ (35)</td>
</tr>
<tr>
<td>4. Cost (based on total hours, avg cost/hr, and direct costs)</td>
<td>______ (15)</td>
</tr>
</tbody>
</table>

Evaluation Team:

The evaluation team can be comprised of the following members:

- GBNRTC staff
- NYSDOT
- City of Buffalo