

**RETURN WITH BID**

**SMALL BUSINESS INITIATIVE**

**Rolling Owner Controlled Insurance Program  
(ROCIP)**

**CONTRACT RR-26-9315**

**VETERANS MEMORIAL TOLLWAY (I-355)**

**FACILITY IMPROVEMENTS**

**AT CENTRAL ADMINISTRATION BUILDING**

**MILE POST 19.8**



Illinois Tollway

2700 Ogden Avenue Downers Grove, IL 60515

**VOLUME I**

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## **PART I - INSTRUCTIONS**

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**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY**  
**ADVERTISEMENT FOR BIDS**  
**Bid Schedule and Information for**  
**CONTRACT NO: RR-26-9315**

Electronic submissions for the above numbered contract as described below will be received by the Illinois Tollway via BidBuy, the State of Illinois eProcurement System, until **10:30:00 a.m. local time on August 14, 2026**. The Illinois State Tollway Highway Authority (ISTHA) will no longer accept manual, hard copy bid submissions. All bidders are strongly encouraged to submit bids timely as the system will not accept late bid submittals. Bid results will be posted on the Tollway's on-line plan room: [www.illinoistollwaybidding.com](http://www.illinoistollwaybidding.com).

For assistance with registration in BidBuy or submitting electronic bids, please contact the BidBuy Vendor Help Desk at: [il.bidbuy@illinois.gov](mailto:il.bidbuy@illinois.gov) and /or phone: 866-455-2897.

The optional pre-bid meeting will be held through Microsoft Teams on July 8, 2026 at 9:00 a.m. The meeting information is listed on the A-2 page. An optional site visit will be held on July 9, 2026 at 2700 Ogden Ave in Downers Grove at 9:00 a.m. Additional information is listed in the A-3 page.

The work to be done under this contract shall be started on or about November 16, 2026. All work under this contract shall be completed by July 2, 2027. The location of the services to be performed for this contract is the Veterans Memorial Tollway (I-355) at Mile Post 19.8 in DuPage County, Illinois. The work under this contract includes demolition of an existing cafeteria including removal of all kitchen equipment and built-in cafe furniture and renovation into a new lunchroom and office spaces including mechanical, plumbing, and electrical work.

Bidders are also required to be registered, or submit evidence of application, with the Illinois Department of Human Rights (IDHR).

Please note that written or oral communications received by the Illinois Tollway in connection with this solicitation may be required to be reported to the Procurement Policy Board as required by law. This provision is not intended to prohibit communications with State employees regarding a procurement matter, but rather only requires reporting of those communications when they occur.

All bids must be on forms prescribed by the Illinois Tollway and must comply with the terms and conditions set forth in the contract documents. Copies of the plans, special provisions, bid forms and other contract documents for this contract are available from BHFx Digital Imaging and can be viewed and/or ordered for purchase by visiting the On-line Plan Room via [www.illinoistollwaybidding.com](http://www.illinoistollwaybidding.com). Copies of the current Illinois Tollway Supplemental Specifications to the Illinois Department of Transportation Standard Specifications for Road and Bridge Construction can be purchased directly from BHFx Digital Imaging. The current Illinois Tollway Supplemental Specifications may also be viewed in the 'Doing Business' section on the Tollway website. Current Illinois Department of Transportation Standard Specifications for Road and Bridge Construction, Supplemental Specifications and Recurring Special Provisions can be viewed and purchased from the Illinois Department of Transportation website. Electronic copies of the contract documents are also available on compact disk (CD) from BHFx Digital Imaging. Copies are in a portable document format (PDF). **Bidders with questions or in need of assistance in purchasing contract documents are to contact a BHFx Digital Imaging, Customer Service Representative at 630-393-0777, ask for the Plan Room.**

Questions pertaining to the intent of the contract documents may be sent to the Illinois Tollway, attention 9240D.9315\_Questions@docs.e-builder.net, to be received no later than 2:00 p.m. local time on July 24, 2026.

A completed Questionnaire and a statement of current contractual obligations on forms supplied by the Illinois Tollway will be required from all bidders. Each bid must be accompanied by a Bid Guaranty in the amount of five (5%) per cent of the total amount shown in the bid for the contract. The Bid Guaranty shall be in the form of an acceptable bid bond or a bank draft, certified check or cashier's check drawn on a solvent bank made payable to the Illinois State Toll Highway Authority.

Award of the above contract, if any award be made, will be to the lowest responsive and responsible bidder or bidders. The Illinois Tollway reserves the right to reject any and all bids, to waive technicalities, or cancel the solicitation.

**COPIES OF PLANS, SPECIAL PROVISIONS, BID FORMS, CONTRACT DOCUMENTS, STANDARD SPECIFICATIONS AND SUPPLEMENTAL SPECIFICATIONS ARE NOT AVAILABLE AT THE TOLLWAY CENTRAL ADMINISTRATION BUILDING.**

**DATE: June 26, 2026**

**PRE-BID MEETING  
FOR CONTRACT RR-26-9315  
ILLINOIS STATE TOLL HIGHWAY AUTHORITY**

**Date: June 26, 2026**

**ANNOUNCEMENT**

An optional pre-bid meeting will be held through Microsoft Teams on July 8, 2026, at 9:00 a.m. local time.

Complete the registration information to join Microsoft Teams. Please include the following:

First Name  
Last Name  
Email address: (confirm email address)  
Phone number  
Title and Organization

Wednesday, July 8, 2026 | 30 minutes | 9:00 a.m. Central Time (US & Canada)

Meeting ID: 242 481 527 512 756  
Passcode: Ej2fK77V

Register and join Event:

<https://events.gcc.teams.microsoft.com/event/1fd285f8-e101-4bbf-b2d6-bc5ae9263966@48475f88-04d3-4aa6-ae94-21dcfec788aa>

**Audio conference:** United States, Chicago  
+1 872-240-8046  
Access code:

**CONTRACT RR-26-9315**  
**ILLINOIS STATE TOLL HIGHWAY AUTHORITY**

**June 23, 2026**

An optional site walk-through is scheduled for July 9, 2026 at 9:00 a.m. at the Illinois Tollway Central Administration Building at Mile Post 19.8 located at 2700 Odgen Avenue in Downers Grove, IL 60515.

Access to the site is near the east entrance lobby. All attendees must have proper safety apparel including hard hat, safety vest, and steel toe boots. Interested parties shall arrive at the site by 8:45 a.m. Parking will be provided at the east entrance parking lot.

Requests to attend the walk-through may be submitted by email to [rsainvil@getipass.com](mailto:rsainvil@getipass.com). Requests must be submitted by 2:00 p.m. on July 8, 2026. Business cards will be collected from all attendees in lieu of a sign sheet.

There will be a limit of 10 attendees per contractor with a maximum of 30 attendees. A second session will be opened if the first session reaches capacity. In the event of a second session, this will be scheduled for July 10, 2026 at 9:00 a.m. at the same location.

The intended schedule is:

- **8:30 am to 8:45 am** – Arrive and park in the east parking lot at the Central Administration Building at 2700 Odgen Ave in Downers Grove
- **8:45 am to 9:00 am** – Sign into the Central Administration Building at the east entrance
- **9:00 am to 10:15 am** – Escorted walk through the proposed construction area at the cafeteria of the Central Administration Building
- **10:20 am** – Conclusion of the site walk-through

## **NOTICE**

### **Small Business Initiative (SBI)**

This contract is subject to the Small Business Initiative and the Small Business Set-Aside Program (SBSP). Small Business Initiative as defined by the Special Provision and SBSP as defined under Section 45-45 of the Illinois Procurement Code (30 ILCS 500/45-45).

Only those bidders registered in the Illinois Procurement Gateway (IPG) who qualify as a small business under the Provision/Code may bid on this contract. For purposes of this contract, a small business is defined as a business that is independently owned and operated, is not dominant in its field of operation, and meets the required size status and sales limitations.

A business is considered "not dominant in its field of operation" if it does not exercise a controlling or major influence in a kind of activity in which a number of business concerns are primarily engaged. When computing the size status of a Bidder, annual sales and receipts of the Bidder and all of its affiliates shall be included, subject to the following limitations:

- (1) No wholesale business is a small business if its annual sales for its most recently completed fiscal year exceed \$13,000,000.
- (2) No retail business or business selling services is a small business if its annual sales and receipts exceed \$8,000,000.
- (3) No manufacturing business is a small business if its annual sales for its most recently completed fiscal year exceed \$13,000,000 (wholesale) or employs more than 250 persons.
- (4) No construction business is a small business if its annual sales and receipts exceed \$14,000,000.

#### **\*\*\*Attention Small Business Initiative Vendors\*\*\***

**Note:** A Bidder must be registered as a small business in the Illinois Procurement Gateway (IPG) at the time bids are due in order for their bid to be evaluated. For complete requirements and to register a Bidder's business visit (<http://ipg.illinois.gov>) to register in the IPG.

**Failure of the Bidder to submit evidence of registration in the Illinois Procurement Gateway (IPG) as a small business at the time of bid shall cause the bid to be deemed as non-responsive.**

**Please register in the Illinois Procurement Gateway (IPG) at (<http://ipg.illinois.gov>).**

- \* Click on Register Your Company (left side of page) or log in if you already have an account.
- \* Once account is created, log into the Illinois Procurement Gateway.
- \* Next, click on New Registration in upper left-hand corner.
- \* Complete all fields and submit for review/qualification.

Assistance with the Illinois Procurement Gateway may be obtained by emailing [EEC.SmallBusiness@Illinois.gov](mailto:EEC.SmallBusiness@Illinois.gov) or calling 217-685-0568.

Questions?

If you have questions, please contact Jennifer Allen, Small Business Specialist at [EEC.SmallBusiness@Illinois.gov](mailto:EEC.SmallBusiness@Illinois.gov)

## **Small Business Initiative Tiers (SBI)**

Contracts within the *Small Business Initiative* shall be advertised on the Tollway's bidding schedule in three Tiers as listed below.

### **Small Business Tier 1**

*Prime contractors may be required to furnish the material, labor, equipment, and all incidentals necessary to perform, with its own organization, work items up to 40 percent of the total Contract Award amount of Tier 1 contracts. Specific requirements are included in Illinois Tollway Supplemental Specification 108.01 as amended by Special Provision Section 124.*

### **Small Business Tier 2**

*Prime contractors may be required to furnish the material, labor, equipment, and all incidentals necessary to perform, with its own organization, work items up to 40 percent of the total Contract Award amount of Tier 2 contracts. Specific requirements are included in Illinois Tollway Supplemental Specification 108.01 as amended by Special Provision Section 124.*

### **Small Business Tier 3**

*Prime contractors may be required to furnish the material, labor, equipment, and all incidentals necessary to perform, with its own organization, work items up to 40 percent of the total Contract Award amount of Tier 3 contracts. Specific requirements are included in Illinois Tollway Supplemental Specification 108.01 as amended by Special Provision Section 124.*

**Joint Ventures are allowed under the Tollway's Small Business Initiative Tier.**

**A business must also be registered in the Tollway's SBI within 5 days of notification of apparent low bidder status.**

### **Please register in the Illinois Tollway System**

- Once you have registered with the IPG, please register with the Illinois Tollway at <https://iltollway.diversitysoftware.com/> Click on Apply for/Renew Registration under Vendor Registration

Assistance with the Tollway's Small Business Initiative Registration may be obtained by emailing: [SBI@getipass.com](mailto:SBI@getipass.com) Proof of Registration with the Tollway's Small Business Initiative is required.

**Illinois State Toll Highway Authority**  
**SPECIAL PROVISION FOR**  
**SMALL BUSINESS INITIATIVE**

**1. POLICY STATEMENT**

It is the policy of The Illinois State Toll Highway Authority (“ISTHA” or “Tollway”) that qualified Illinois Small Businesses (“SBs”), as defined herein, have maximum feasible opportunities to participate fully in the performance of contracts funded and administered by the Tollway. The Tollway seeks to (i) ensure non-discrimination in the award and administration of its contracts and associated subcontracts, (ii) ensure it is not a passive participant in a discriminatory marketplace, (iii) create a level playing field on which Illinois based SBs can compete fairly for its contracts, (iv) ensure that any and all firms permitted to participate as SBs meet the eligibility standards of the Small Business Initiative applicable to prime or subcontractors, and (v) help remove barriers to the participation of SBs in Tollway contracts and associated subcontracts.

Consistent with this policy, it is the responsibility of all contractors for general contracting work, and a specific condition of all Tollway contracts to which they are parties, to ensure full and fair opportunities for SBs to compete in contracts funded and administered by the Tollway and to fully comply with this Special Provision.

**2. DEFINITIONS**

For the purposes of this Special Provision, the following terms shall have the following meanings:

*Affiliate:* Concerns and related entities are affiliates of each other when one directly or indirectly controls or has the power to control the other, or when a third party or parties’ controls or has the power to control both. It does not matter whether control is exercised, so long as the power to control exists. In determining whether concerns and related entities are independently owned and operated and whether affiliation exists, the CPO will consider the totality of the circumstances and all appropriate factors, including use of common facilities, common ownership and management, identity of interest (substantially identical business or economic interests such as family members, individuals or firms with common investments, or firms that are economically dependent through contractual or other relationships) and contractual arrangements. The CPO may find affiliation even if no single factor is sufficient to constitute affiliation. A franchise relationship shall not affect the determination of affiliate status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

*Bid Bond* means a written guaranty, issued by an insurance company or a bank, guaranteeing the bidder will honor the terms of the bid. Bid Bond requirements shall be listed within each solicitation. The amount of the bond is variable and at the discretion of the Tollway.

*Commercially Useful Function* means a distinct element of contract work a contractor is responsible for executing, by actually performing, managing, and supervising the work or fulfilling responsibilities for such work as a Small Business Joint Venture or Teaming Agreement partner.

*Contingency Work* means anticipated work within the scope of the project that is of such an uncertain nature that the location or quantity of the work could not be identified prior to awarding the contract.

*Core Work* means anticipated work within the scope of the project that is of such a nature that the location and estimated quantity of the work could be identified prior to awarding the contract.

*Direct Allowance Items* means cost items that may include mobilization, contractor quality plan, and other items

as directed on the Tollway website's [Direct Allowable Cost Document](#). Direct Allowance Items are allowable when requested by the Tollway and included in the contract. The costs are allowable when it is customary for the firm to bill for the cost, and it can be itemized in the firm's billing and accounting systems.

*Disadvantaged Business Enterprise* ("DBE") means (i) a business currently certified by the Illinois Unified Certification Program ("ILUCP") pursuant to 49 C.F.R. Part 26, (ii) a business currently certified by the City of Chicago, Illinois or the County of Cook, Illinois as a Minority or Women-Owned Business ("M/WBE") pursuant to its M/WBE program for construction contracts, Art. IV, § 2-92-650, *et seq.*, as amended, or (iii) a business currently certified by the U.S. Small Business Administration ("SBA") pursuant to the Small Business Act as an SBA 8(a) business, owned and operated by a socially and economically disadvantaged person. A DBE is considered to have current certification if the firm is listed in the directory database of the pertinent certifying agency and confirmed to be in good standing.

*Diversity Goals* refers to various goal programs administered by the Tollway which may be applied to contracts within the Small Business Initiative.

*Good Faith Efforts* means actions a contractor undertakes to achieve a DBE/VET contract goal, which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the contract goal.

*Manufacturer* means a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

*Mobilization* means preparatory work and operations necessary for the movement of personnel, equipment, and incidentals to the project site for the establishment of offices, buildings, and other facilities necessary for work on the project and for all other work operations which must be performed, or costs incurred when beginning work on the project.

*Performance Bond* means a surety bond, issued by an insurance company or a bank, guaranteeing a contractor's completion of a project to the Tollway's satisfaction. Performance Bond requirements shall be listed within each solicitation. The amount of the bond is variable and at the discretion of the Tollway.

*Regular Dealer* means a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a Regular Dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A firm may be a Regular Dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business if the firm both owns and operates distribution equipment for the products. Any supplementing of a Regular Dealer's distribution equipment shall be by a long-term lease agreement and not on an *ad hoc* or contract-by-contract basis. Packagers, manufacturer representatives, or other persons who arrange or expedite transactions are not Regular Dealers.

*Rolling Owner Controlled Insurance Program* ("ROCIP") means an insurance program managed and controlled by the Tollway that provides insurance coverage for specific construction projects. Requirements regarding enrollment in the ROCIP will be listed within each solicitation and is at the discretion of the Tollway.

*Small Business* ("SB") means an Illinois business currently registered by the State of Illinois Chief Procurement Office/General Services pursuant to the Small Business Set-Aside Program ("SBSP"). An SB is considered to have

current registration if the firm is listed in the SBSP directory database at time of bid. The link to the directory is found at:

<https://ipg.illinois.gov/>

Click the Vendor Directory then search by Reference/Small Business Set-Aside Program Registered drop-down and mark "YES".

*Small Business Exception* ("SBE") means an exception given to a small business prime contractor or a Small Business Joint Venture or Teaming Agreement, as defined in this Special Provision, on a Small Business Initiative contract that allows for subcontracting with firms who are not registered in the Tollway's Small Business Initiative program. Eligibility for a SBE will be determined by the Tollway's Department of Diversity and Strategic Development.

*Small Business Joint Venture* mean an association of two or more SBI firms proposing to perform as a prime contractor, in which each partner contributes property, capital, efforts, skill and knowledge, is responsible for a distinct, clearly defined portion of the work of the project and has a proportional share in the capital contribution, control, management, risks, and profits of the Small Business Joint Venture or Teaming Agreement, as described in a written agreement that specifies the terms and conditions of the relationship between the partners and each partners' risks and responsibilities and identifies the lead partner, if any. The combined gross revenue for any Small Business Joint Venture or Teaming Agreement cannot exceed the State's \$14 million annual gross revenue threshold for a Small Business Initiative Vendor.

*Small Business Initiative* ("SBI") means a Tollway program in which an Illinois business (whether a *Small Business Initiative Vendor* may participate only if it is registered in the Tollway's SBI program. A business must be registered in the Tollway's SBI program within 14 calendar days of notification of apparent low bidder status. The link to the Tollway's registration information is found at:

<https://iltollway.diversitysoftware.com>

*Small Business Subcontractor Plan* means a list (which all bidders are required to submit) of all subcontractors to be utilized on the contract.

*Supplier* means any person or entity providing supplies, including, but not limited to, equipment, materials, printing and insurance, or any person or entity that finances the purchase of supplies that can be procured regularly or are available on the commercial market.

*Supplies* means all personal property, including but not limited to equipment, materials, printing, and insurance.

*Utilization Plan* means a list (which all bidders are required to submit) of all subcontractors to be utilized and, where applicable, those identified to satisfy the goals outlined below.

*Disadvantaged Business Enterprise Utilization Plan* ("DBE Utilization Plan") means the list of currently certified DBEs that the Bidder commits will be utilized, including its own participation as a DBE, if applicable, in the scopes of work and the dollar values or the percentages of work to be performed pursuant to a solicitation and in conformance with this Special Provision. This utilization plan applies to Tiers 2 and 3 of the SBI.

*Veteran Utilization Plan* ("VET Utilization Plan") means the list of currently certified veteran-owned and/or service-

disabled veteran-owned small businesses (“VOSB/SDVOSB”) that the Bidder commits will be utilized, including its own participation as a VOSB/SDVOSB, if applicable, in the scopes of work and the dollar values or the percentages of work to be performed pursuant to a solicitation and in conformance with this Special Provision. This utilization plan applies to Tiers 2 and 3 of the SBI.

*Veteran Owned Small Business/Service-Disabled Veteran Small Business* means a business currently certified by the Illinois Commission on Equity and Inclusion as a VOSB/SDVOSB. A VBP is considered to have current certification if the firm is listed in the directory database of the pertinent certifying agency at time of bid.

### **3. CONTRACTOR ASSURANCE**

The contractor makes the following assurance and agrees to include the assurance in each subcontract the contractor signs with a subcontractor. The contractor shall not discriminate on the basis of any protected class identified by law in the performance of this contract. Failure by the contractor 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 Tollway deems appropriate.

### **4. VENDOR LOCATOR REFERENCES**

Bidders should consult the Illinois Tollway and Illinois Procurement Gateway (“IPG”) Small Business Directory and Tollway SBI Directory as a reference source for SBI Vendors. The links to the directories are set forth below:

<https://ipg.illinois.gov/>

<https://iltollway.diversitysoftware.com>

These directories will be used only as a source to identify registered SBI Vendors that may potentially participate in this contract. Registration does not mean that a firm is in any way prequalified to provide the products and/or services in its registration specialty. “Registration” means that (i) the Illinois Chief Procurement Office has determined, on the basis of information provided and the representations therein, that a business meets the requirements to be registered as a Small Business under the Illinois Procurement Code. The Illinois Chief Procurement Office, as a result of listing, does not make any representation concerning the ability of any listed firm to perform work in the specialty listed. The Illinois Tollway does not, through its use of or referral to the IPG, make any representation concerning the ability of any listed firm to perform work in its registered specialty. Bidders must conduct their own due diligence regarding the capabilities of registered firms to perform contract work.

### **5. VENDOR RULES AND ELIGIBILITY CRITERIA FOR SMALL BUSINESS INITIATIVE**

Procurement in construction-related work may be reserved for qualified Illinois businesses in the SBI subject to the limitations listed below.

- 5.1. An Illinois business may participate in the SBI as a prime contractor only if it is registered as a Small Business by the State of Illinois Chief Procurement Office/General Services and listed in the SBSP directory database at the time of bid opening in accordance with Title 44 Ill. Admin. Code 1.4545(b):

The CPO-GS may develop his or her own list or may use a list maintained by another State agency, of vendors that meet the criteria of small business. Vendors desiring to submit bids or proposals or to otherwise contract for items set aside for small businesses shall submit information as specified verifying that the vendor qualifies as a small business under this Part. A business that fits the definition of small on the day of bid, offer, or proposal opening will be considered small at the time of award and may have the resulting contract and any renewals, even if the business no longer qualifies as a small

business. When utilizing vendor lists for soliciting small business vendors, all vendors shall be solicited under the commodity codes representing the supplies or services being solicited. Prime contractors on SBI program contracts must be registered in the Tollway's SBI within 14 calendar days of notification of apparent low bidder status.

- 5.2. Each firm bidding as part of a Small Business Joint Venture, as defined in this Special Provision, must also be registered in the Tollway's SBI within 14 calendar days of notification of apparent low bidder status. To register as a Small Business Joint Venture firms must complete the pre-assessment form located on the Illinois Tollway website. Once the pre-assessment form has been received and reviewed, a username and password will be sent in order for the firm to complete the registration application in the Diversity Program System.
- 5.3. Primes shall only utilize SBI Vendors as subcontractors. Any subcontractors identified at the time of bid that are not already registered with the SBI will have 14 calendar days to become registered after the Tollway issues notice that they need to register. Primes are not required to utilize SBI Vendors as suppliers. No wholesale business will be considered an SBI for purposes of the SBI if its annual sales for its most recently completed fiscal year exceed \$13,000,000.
- 5.4. No retail business or business selling services will be considered an SBI for purposes of the SBI if its annual sales and receipts exceed \$8,000,000.
- 5.5. No Illinois manufacturing business will be considered an SBI for purposes of the SBI if it employs more than 250 persons.
- 5.6. No Illinois construction business will be considered an SBI- for purposes of the SBI if its annual sales and receipts for its most recently completed fiscal year exceed \$14,000,000.
- 5.7. If a business is any combination of retailer, wholesaler, or construction business, only the annual sales for which the business is applying may not exceed the higher of the category thresholds shown above. See 5.3, 5.4 and 5.5. For example, a business that is both a retailer and in construction that applies to register as an SBI- Vendor for construction may not have annual construction sales and receipts, for its most recently completed fiscal year, in excess of \$14,000,000 for an SBI- Vendor. The retail category annual sales and receipts, not being applied for, would not be considered. If the business is also a manufacturer, in addition to meeting the annual sales requirement, its total manufacturing employees could not exceed 250 persons.
- 5.8. Advertisements for bids or offers for contracts under the SBI shall be designated as Small Business Initiative advertisements. In awarding the contracts, only bids or offers from qualified SBI Vendors.
- 5.9. The Tollway reserves the right, at its discretion, to award a contract solicited under Tiers 1, 2 and 3 of the SBI program as an SBI contract or a contract under the Tollway's Small Business Set Aside Program.

## **6. TIERS OF SMALL BUSINESS INITIATIVE CONTRACTS**

SBI contracts shall be advertised in one of three Tiers as listed below.

### **6.1. Small Business Initiative Tier 1**

- 6.1.1. Construction contracts with an engineers' estimated dollar value of \$1,000,000 or less will be designated Tier 1 contracts and will be subject to the criteria specified in the bid documents and summarized below:

- 6.1.2. Prequalification by the Illinois Department of Transportation (“IDOT”) is not required.
  - 6.1.3. Tier 1 contracts will not include Diversity Goals. Prime contractors may be required to furnish the material, labor, equipment, and all incidentals necessary to self-perform up to 40 percent of the total Contract Award.
  - 6.1.4. Prime contractors will be required to utilize only SBI Vendors as subcontractors. Primes are not required to utilize SBI Vendors as suppliers. If a prime contractor cannot identify sufficient SBI Vendors to serve as subcontractors, the prime must submit a request for a Small Business Exception in accordance with Section 7.2, Small Business Exception Procedures.
- 6.2. Small Business Initiative Tier 2
- 6.2.1. Construction contracts with an engineers’ estimated dollar value between \$1,000,001 and \$3,000,000 will be designated Tier 2 contracts and will be subject to the criteria specified in the bid documents and summarized below:
  - 6.2.2. Prequalification from IDOT is not required for Tier 2 contracts unless otherwise specified by the Tollway in the bid documents.
  - 6.2.3. Tier 2 contracts include Diversity goals for Core Work as stipulated in the DBE and VOSB Special Provision.
  - 6.2.4. Prime contractors may be required to furnish the material, labor, equipment, and all incidentals necessary to self-perform up to 40 percent of the total Contract Award.
  - 6.2.5. Prime contractors will be required to utilize only SBI Vendors as subcontractors. Primes are not required to utilize SBI Vendors as suppliers. If a prime contractor cannot identify sufficient SBI Vendors to serve as subcontractors, the prime must submit a request for a Small Business Exception in accordance with Section 7.2, Small Business Exception Procedures.
- 6.3. Small Business Initiative Tier 3
- 6.3.1. Construction contracts with an engineers’ estimated dollar range between \$3,000,001 and \$5,000,000 will be designated Tier 3 contracts and will be subject to the criteria specified in the bid documents and summarized below:
  - 6.3.2. Prequalification from IDOT is not required for Tier 3 contracts unless otherwise specified by the Tollway in the bid documents.
  - 6.3.3. Tier 3 contracts include Diversity goals for Core Work as stipulated in the DBE and VOSB Special Provision.
  - 6.3.4. Prime contractors may be required to furnish the material, labor, equipment, and all incidentals necessary to self-perform up to 40 percent of the total Contract Award.
  - 6.3.5. Prime contractors will be required to utilize only SBI Vendors as subcontractors. Primes are not required to utilize SBI Vendors as suppliers. If a prime contractor cannot identify sufficient SBI Vendors to serve as subcontractors, the prime must submit a request for a Small Business Exception in accordance with Section 7.2, Small Business Exception Procedures.

## **7. BIDDING PROCEDURES FOR SBI CONTRACTS**

Compliance with the bidding procedures of this Special Provision is required prior to award of the contract. The failure of the as-read low bidder to comply will render said bidder’s bid non-responsive. All bids must be submitted electronically through the State’s BidBuy software. The bidder must notify subcontractors of the subcontractors’ inclusion in the bid within three (3) days being notified, by the Tollway, of its apparent low-bidder

status. If the contract is awarded, the bidder shall again notify the subcontractors.

7.1. Submission of the Small Business Plan, Small Business Form 2028-A (form 2028-A)

For Tiers 1, 2, and 3 a bidder must submit a Small Business Form 2028-A with its bid submission for the SBI.

If a bidder fails to submit Small Business Form 2028-A with its bid submission, it must submit the required form within 14 calendar days of being notified, by the Tollway, of its apparent low bidder status.

Any subcontractors identified at the time of bid that are not already registered with the SBI will have 14 calendar days to become registered after the date the Tollway issues notice that they need to register. If the subcontractor does not meet the eligibility requirements, vendors may update the form 2028-A with a replacement SBI subcontractor or request an SBE.

All elements of information indicated on SBI Form 2028-A must be provided:

7.1.1. Prime participation

- Full description of scope of work;
  - Descriptions such as “miscellaneous” and prices such as “lump sum” are not acceptable and will not be approved until such time the scopes have been confirmed as required work of the contract.
- Total contract amount for the work to be completed by SBI prime contractor;
- Percentage of contract for the work to be completed;
- Registration status in the Chief Procurement Officer for General Services Small Business Set-aside Program (SBSP);
- Registration status in the Illinois Tollway Small Business Initiative (SBI);
- Participation status of prime contractor in the DBE/Vet Plan.

7.1.2. Small Business subcontractor plan

- Full firm name
- Full description of scope of work;
  - Descriptions such as “miscellaneous” and prices such as “lump sum” are not acceptable and will not be approved until such time the scopes have been confirmed as required work of the contract.
- Supplier status;
- Total subcontract amount for the work to be completed by the SBI subcontractor;
- Percentage of contract of the work to be completed;
- Registration status in the State of Illinois Small Business Set-aside Program (SBSP);
- Registration status in the Illinois Tollway Small Business Initiative (SBI);
- Participation status of subcontractor in the DBE/Vet Plan.

7.1.3. Name; signature and contact information required. Electronic signatures are acceptable.

7.2. Submission of Small Business Exception Small Business Form 2028-B

If a prime contractor cannot identify sufficient SBI Vendors to complete all subcontracted work, the prime contractor must submit ISTHA Small Business Form 2028-B for a Small Business Exception. Small Business Exceptions, either in whole or in total, requesting 40% or more of the total contract amount will not be considered. Small Business Exceptions greater than the self-performance requirement will be reviewed on a case-by-case basis. The request must document the scope of work for which SBI Vendor participation

is not available and the efforts the prime took to engage SBI Vendors to perform that scope of work. It also must include documentation confirming that the prime attempted to secure SBs that participated in the Tollway's Technical Assistance Program.

A prime contractor's request for an SBE must show the prime took all necessary and reasonable steps to subcontract with SBI Vendors. Necessary and reasonable steps are those that could reasonably be expected to obtain sufficient SBI Vendor participation.

ISTHA will consider the quality, quantity, and intensity of the efforts a prime contractor made to secure SBI Vendor participation. Mere pro forma efforts are not sufficient and will not be considered. A prime contractor is expected to actively and aggressively try to subcontract with SBI Vendors.

ISTHA will consider the following actions when evaluating a request for an SBE. The listed actions are not intended to be a mandatory checklist and are not intended to be exhaustive. Other actions or efforts brought to ISTHA's attention may be relevant and will be considered by ISTHA as ISTHA deems appropriate.

- 7.2.1. Soliciting SBI Vendors to perform contract work through all reasonable and available means (e.g., attendance at Webinars and Networking Sessions sponsored by the Department of Diversity and Strategic Development, attendance at pre-bid meetings, advertising and/or written notices). The prime contractor must follow-up on initial inquiries to determine, with certainty, if SBI Vendors are interested in performing contract work.
- 7.2.2. In a timely manner, providing interested SBI Vendors adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in becoming subcontractors.
- 7.2.3. Negotiating in good faith with SBI Vendors. Evidence of such negotiation includes the names, addresses, e-mail address and telephone numbers of SBI Vendors that were considered, and a description of the information provided regarding the plans and specifications for the work selected for subcontracting.
- 7.2.4. A prime contractor exercising good faith would consider a number of factors in negotiating with SBI Vendors and would take a Small Businesses' pricing and capabilities to perform contract work into account. The fact that there may be some additional costs involved to find and use an SBI Vendor is not in itself sufficient reason for a prime to fail to use an SBI Vendor, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make efforts to utilize an SBI Vendor. A prime contractor is not, however, required to accept quotes from an SBI Vendor if the quote is deemed excessive or unreasonable.
- 7.2.5. SBI Vendors may not be rejected as unqualified without sound reasons based on a thorough investigation of their capabilities. The SB contractor's standing within its industry; membership in specific groups, organizations, or associations; and political or social affiliations are not legitimate causes for the rejection of or non-solicitation of bids from SBI Vendors.
- 7.2.6. Making efforts to assist interested SBI Vendors in obtaining bonding, lines of credit or insurance as required by the Tollway or the prime contractor.
- 7.2.7. Making efforts to assist interested SBI Vendors in obtaining necessary equipment, supplies, materials or related assistance or services.
- 7.2.8. Effectively using the services of available chambers of commerce, community organizations,

small business contractors' groups, local, state, and federal business assistance offices, and other organizations as allowed on a case-by-case basis to aid in the recruitment and placement of SBI Vendors.

7.3. Within 5 business days after receiving written notice of an adverse pre-final determination on its request for a Small Business Exception, a prime contractor may seek administrative reconsideration of the adverse pre-final determination by submitting a written request for administrative reconsideration to The Illinois State Toll Highway Authority, Chief of Diversity and Strategic Development at [SBI@getipass.com](mailto:SBI@getipass.com). Any such submission must be transmitted via e-mail.

7.3.1. The pre-final determination shall become final if a request for administrative reconsideration is not received within the above 5-day period. After a pre-final determination is final, the Tollway will submit its determination for review by the CPO.

7.3.2. The administrative reconsideration procedure described in this Section is not intended to allow a prime contractor additional time to solicit SBI Vendors. Accordingly, neither the retention of an SBI Vendor nor evidence of negotiations with an SBI Vendor after the Tollway's pre-final determination will be considered in connection with a request for administrative reconsideration.

7.3.3. If a prime contractor seeks administrative reconsideration, the Chief of Diversity and Strategic Development, in the Chief's discretion, may extend an invitation to the contractor to meet in person or via video conference to facilitate the Chief's consideration of whether the prime contractor made all reasonable efforts to meet the requirement for a Small Business Exception. Such meeting shall extend the time for resolution of a request for administrative reconsideration.

7.3.4. Within 10 working days after receipt of a request for administrative reconsideration or the date of the above-referenced meeting, if any, the Chief of Diversity and Strategic Development will send the prime contractor a written decision regarding the request, including an explanation of the basis of the same. In the event the Chief of Diversity and Strategic Development determines that the prime contractor's efforts were sufficient, the prime contractor's request for a Small Business Exception will be approved. If the Chief of Diversity and Strategic Development determines that the prime contractor's efforts were insufficient, the Tollway will submit its determination for review by the CPO.

7.4. Submission of SMALL BUSINESS Payment Report

Payment reporting, in such form or format as specified by the Tollway, must be submitted as specified in the Contract Compliance Payment Reporting Instructions posted on the Tollway's website.

The contractor shall maintain a record of payments to all subcontractors and suppliers for work performed. The records shall be made available to ISTHA for inspection and copying upon request. After the performance of the final item of work or delivery of material by a subcontractor and final payment by the contractor, but not later than thirty (30) calendar days after payment has been made by ISTHA to the contractor for such work or material, the contractor shall submit partial and final waivers of lien.

All active Tollway vendors/contractors/consultants will be required to use B2GNow. Payments to both diverse and non-diverse subcontractors must be reported and confirmed monthly in the system at <https://iltollway.diversitysoftware.com/>.

## **8. CHANGES TO THE SMALL BUSINESS PLAN**

- 8.1. In no case should a Contractor remove, replace, or reduce the participation to the SBI vendor listed in the initial Small Business Plan 2028-A without prior written consent of ISTHA.
- 8.2. Additions to the plan during the term of the contract shall follow the process as specified in the contract.

## **9. SANCTIONS**

The Tollway will periodically review the contractor's compliance with this Special Provision and the terms of its contract with the contractor, including the Small Business Subcontractor Plan. Without limitation, the contractor's failure to comply with this Special Provision or its Small Business Subcontractor Plan, failure to cooperate in providing information regarding its compliance with this Special Provision or its Small Business Subcontractor Plan, or provision of false or misleading information or statements concerning compliance, registration status of SBI Vendors, good faith SBE supporting documentation or any other material fact or representation shall constitute a material breach of this contract. Such breach shall entitle the Tollway to declare a default, terminate the contract, impose sanctions, impose liquidated damages and/or exercise any other remedies provided for in the contract or at law or in equity.

Sanctions may include, but are not limited to, monetary sanctions (including non-release of retainage), imposition of the monetary cost of audits resulting in findings of noncompliance, liquidated damages based on the damage to the Tollway from the contractor's lack of good faith SBE supporting documentation and/or failure to meet other requirements of this Special Provision, and any other sanctions permitted by law.

If an SBI Vendor that, in order to meet the SBE program requirements, uses or attempts to use, on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of the SBI, upon CPO concurrence, the Tollway may initiate action against the involved SBI firms to preclude their participation in the Tollway SBI.

## **10. INACCURATE OR FRAUDULENT REPORTING**

The contractor has a duty to accurately report information pursuant to this Special Provision. A contractor who fails to supply accurate information is subject to sanctions imposed by the Tollway up to and including suspension from SBI participation. A contractor who intentionally supplies inaccurate information may be subject to civil and/or criminal sanctions.

## **11. OTHER REGULATIONS**

Adherence to the SBI requirements does not abrogate other responsibilities of the contractor to comply with affirmative action requirements under federal or state law, municipal ordinance, prevailing government regulations or terms contained elsewhere in the contract.



**ILLINOIS STATE TOLL HIGHWAY  
AUTHORITY**  
**Small Business Form 2028-A**  
Small Business Plan

CONTRACT NUMBER: \_\_\_\_\_

PRIME CONTRACTOR: \_\_\_\_\_  
CONTACT NAME: \_\_\_\_\_  
CONTACT PHONE: \_\_\_\_\_  
CONTACT EMAIL: \_\_\_\_\_

**Instructions to vendors:**

1. Primes may only utilize SBI Vendors as subcontractors. **All** subcontractors (including those fulfilling goals) must be listed below.
2. Contractors are required to comply with the Special Provision.
3. This SBE Form 2028-A must:
  - be submitted at the time of bid
  - be an accurate representation of work and pricing agreed upon between the prime and the subcontractor
4. Each company listed on the Small Business Plan must be listed in the Tollway SBI directory or be in the process of application as stipulated in the Special Provision.
5. In no case should a Contractor remove, replace or reduce the participation of a firm listed in the initial Small Business Small Business Plan without prior written consent of ISTHA. Any changes that may affect the DBE/VOSB participation shall be requested in accordance with the DBE and VOSB Special Provisions.

**Prime participation**

Scope of Work	Amount (\$)	Amount (%)	SBSP (Yes/No)	SBI (Yes/No)	Included in the DBE/VET Plan (Yes/No)

**Small Business subcontractor plan**

Firm Name	Scope of Work (Brief description of overall work to be performed)	Indicate if supplier only	Subcontract Amount (\$)	Subcontract Amount (%)	SBSP (Yes/No)	SBI (Yes/No)	Is this firm included in the DBE/VET Plan (Yes/No)
<b>TOTAL</b>							

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

Phone contact: \_\_\_\_\_

Position: \_\_\_\_\_

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

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



**ILLINOIS STATE TOLL HIGHWAY AUTHORITY**  
**Small Business Form 2028-B**  
 Small Business Exception (SBE)

CONTRACT NUMBER: \_\_\_\_\_

PRIME CONTRACTOR: \_\_\_\_\_  
 CONTACT NAME: \_\_\_\_\_  
 CONTACT PHONE: \_\_\_\_\_  
 CONTACT EMAIL: \_\_\_\_\_

**Instructions to vendors:**

1. Contractors are required to comply with the Special Provision.
2. This SBE Form 2028-B must:
  - be submitted when the identification of a subcontractor is indicated
  - be an accurate representation of work and pricing agreed upon between the prime and the subcontractor
  1. In no case should a Contractor remove, replace or reduce the commitment to a firm listed in the initial Small Business Plan without prior written consent of ISTHA. Any changes that may affect the DBE/VOSB participation shall be requested in accordance with the DBE and VOSB Special Provisions.

**Request for Small Business Exception**

Vendors may only submit one subcontractor exception per form.

Non-SBI firm name proposed	Scope of work solicited	% of exception	\$ of exception

**Demonstration of efforts to Achieve SBI Subcontractor Participation**

If SBI contractor participation could not be met, the checklist and contacts log must be submitted with the contract documentation. Failure to do so may render the bidder's solicitation response non-responsive and cause it to be rejected, or render the bidder ineligible for contract award, at ISHTA's sole discretion. The bidder must provide all evidence relied upon in support of its efforts with its bid.

**SBI Exception Checklist**

Insert on each line below the initials of the authorized bidder representative who is certifying the bidder has completed the activities described below. If any of the items were not completed, attach a detailed written explanation. If any other efforts were made to obtain SBI participation in addition to the items listed below, attach a detailed written explanation.

\_\_\_\_\_ Identified portions of the contract work capable of performance by available SBI firms.

\_\_\_\_\_ Solicited through reasonable and available means (e.g., pre-bid meetings, networking session, written notices, advertisements) SBI firms to perform the types of work that could be subcontracted on this project, within sufficient time to allow them to respond.



**\*Duplicate log as needed to capture all activity.**

**Affidavit of Truthfulness: Signature below affirms accuracy of efforts and authority to provide above information**

Print Name: \_\_\_\_\_ Phone contact: \_\_\_\_\_

Position: \_\_\_\_\_ E-mail address: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Documents Required with the Bid

**Bidder should use this checklist to ensure that all required documents are completed and included with its bid.**

Required Documents	Reference Volume I	Comments and Important Information	Included with Bid ✓
<b>Vendor Disclosure (Formerly Forms A) (22 pages)</b> or <b>IPG Active Registered Vendor Disclosure (Formerly Forms B) (3 or more pages)</b>	Section N	Vendor Disclosure or IPG Active Registered Vendor Disclosure must be submitted with the bid or the bid will be considered non-responsive.	
<b>Disadvantaged Business Enterprise</b> <ul style="list-style-type: none"> <li>• DBE 2026-Utilization Plan</li> <li>• DBE 2023 if needed</li> </ul>	Section I #27 DBE Special Provision	Required for all solicitations with DBE goals. See DBE Special Provision for additional information. If goal is 0% the forms are not required.	
<b>Veteran Small Business Participation and Utilization</b> <ul style="list-style-type: none"> <li>• VOSB 2026-Utilization Plan</li> <li>• VOSB 2023 if needed</li> </ul>	Section I #28 VOSB Special Provision	Required for all solicitations with Veteran goals. See Veterans Special Provision for additional information. If goal is 0% the form is not required.	
<b>Optional Bid Credit Incentive Program Certificates</b>	Section I #30 Bid Credit Incentive Programs Special Provision	If Bid Credit is utilized, Bid Credit Certificates are required in bid submittal See Bid Credit Incentive Programs Special Provision for additional information.	
<b>Page P-1 with Addendum noted, Page P-2 with Bid Guaranty completed, Page P-3 completed with signatures, P-4</b>	Section I #4 P-Pages	Fill in all available pay item prices with values of \$0.01 or greater.	
<b>Bid Bond or Bid Guaranty</b>	Page 2 and 3 of the "P" Pages	Must be submitted with bid or bid will be considered non-responsive. Bid bond must include Signature and Corporate Seal.	
<b>Preferences Form and Affidavit, Contacts and Affidavit</b>	Section R		

## Documents Required with the Bid

Bidder should use this checklist to ensure that all required documents are completed and included with its bid.

<b>Authority to Transact Business in Illinois - Secretary of State Certificate of Good Standing</b>	Section I #10	Current standing at the time of bid will be verified by the Tollway	
<b>Illinois Dept. of Human Rights (IDHR)</b>	A-1 Section I #25	IDHR # Current standing at the time of bid will be verified by the Tollway	
<b>Current Contractual Obligations</b>	Section S		
<b>Tollway Standard Terms &amp; Conditions</b>	Section TC		
<b>SB Form 2028-A or SB Form 2028-B</b>	SBI Special Provisions	Submit with the Bid	

## The Following Will Be Verified by the Tollway for the Low Apparent Bidder

<b>Tollway to Transact Business in Illinois - Secretary of State Certificate of Good Standing</b>	Section I #10	If a Joint Venture, will be verified for each Joint Venture Partner.
<b>Illinois Dept. of Human Rights</b>	Section I #17 & #25	If a Joint Venture, will be verified for each Joint Venture Partner
<b>State Board of Elections</b>	Section I #24	If a Joint Venture, will be verified for each Joint Venture Partner

## Documents Required from Lowest Responsive/Responsible Bidder Upon Request from the Tollway

(Notice of Intent e-mail will be sent requesting these items)

<b>Agreement</b>	Section T	Signatures and Corporate Seal
<b>Performance Bond</b>	Section U	Submit using Tollway form U-1 and U-2
<b>Payment Bond</b>	Section V	Submit using Tollway form V-1 & V-2
<b>Insurance</b>	Section I #16	

<b>Disadvantaged Business Enterprise</b> <ul style="list-style-type: none"> <li>• DBE 2025 (s)</li> </ul>	Section I #27 DBE Special Provision	Required for all solicitations with DBE goals. The DBE Form 2025 is required from the lowest apparent bidder on the fifth (5 <sup>th</sup> ) calendar day after bids are due or the bid will be deemed non-responsive. See DBE Special Provision for additional information. If goal is 0% the forms are not required. Submit form to <a href="mailto:contractcompliance@getipass.com">contractcompliance@getipass.com</a>
<b>Veteran Small Business Participation and Utilization</b> <ul style="list-style-type: none"> <li>• VOSB 2025 (s)</li> </ul>	Section I #28 VOSB Special Provision	Required for all solicitations with Veteran goals. The VOSB 2025 is required from the lowest apparent bidder on the fifth (5 <sup>th</sup> ) calendar day after bids are due or the bid will be deemed non-responsive. See Veterans Special Provision for additional information. If goal is 0% the form is not required. Submit form to <a href="mailto:contractcompliance@getipass.com">contractcompliance@getipass.com</a>
<b>Equal Employment Opportunity EEO 1256</b>	Section I #29 & EEO Special Provision	Required for all solicitations with Equal Employment Opportunity goals. The lowest apparent bidder must submit EEO 1256 on the fifth (5 <sup>th</sup> ) calendar day after bids are due or bid will be deemed non-responsive. Submit form to <a href="mailto:contractcompliance@getipass.com">contractcompliance@getipass.com</a>
<b>Responsible Bidder Affidavit R-6 signed and Notary Seal</b>	Section I #36	
<b>Evidence of authority of company representatives to execute the contract, such as Board of Directors' Minutes, or a resolution authorizing officers of the firm to execute the contract documents</b>		
<b>Certificates showing authorization to do business in Illinois if your firm is not an Illinois corporation.</b>		
<b>Any supplemental financial or experience information if requested by the Illinois Tollway.</b>		
<b>A completed Signature Authority Form designating any and all individuals to execute on behalf of the company any and all contract modifications or documentation</b>		
<b>A completed W-9 form if this is the first time the company is conducting business with the Tollway as a Prime Contractor. Please refer to the following link for the most current IRS W-9 form:</b> <a href="http://www.irs.gov/pub/irs-pdf/fw9.pdf">http://www.irs.gov/pub/irs-pdf/fw9.pdf</a>		
<b>A copy of your IRS Assignment/Acceptance Letter if this is the first time the company is conducting business with the Tollway as a Prime Contractor, or if it has been a long time since you have done work with the Tollway and have never provided the document.</b>		
<b>As applicable to the Contract, Proof of Certification from each firm listed on DBE Form(s) 2025 and or VOSB Form(s) 2025. Please refer to the Special Provision for Disadvantaged Business Enterprise Participation and the Veteran Small Business Participation and Utilization Plan for a list of Certifying Agencies accepted by the Tollway. Proof of Certification includes Original letter of Certification, Certification Certificate, or the company listing in the Certifying Agency's database.</b>		

## **INSTRUCTIONS AND INFORMATION TO BIDDERS**

### **1. ADVERTISEMENT FOR BIDS**

Bids will be received electronically by the Illinois State Toll Highway Authority for constructing a portion of the Illinois Toll Highway System, as described in the Advertisement for Bids.

### **2. EXAMINATION OF CONTRACT DOCUMENTS AND WORK SITE**

Before submitting a bid, the bidder shall carefully examine the provisions of the contract bid documents. The bidder shall also inspect in detail the site of the proposed work, investigate and become familiar with all conditions affecting the contract, and the detailed requirements of construction. Bidders will be held responsible for having done so.

### **3. CONTRACT DOCUMENTS (TO BE COMPLETED IN INK)**

The contract documents for this contract shall be as defined in Section 101 of the Tollway Supplemental Specifications.

### **4. SCHEDULE OF PRICES**

All blank spaces for bid prices must be filled in, in ink, with the unit price, or lump sum price, and the total price for each and every item (which prices must be more than \$0.00). Bids which do not contain a price for every item listed in the Schedule of Prices for the Contract being bid, will not be considered, unless alternate bids are requested.

### **5. INQUIRIES RELATIVE TO INTERPRETATION OF PLANS & SPECIFICATIONS**

Any inquiries by Bidders relative to interpretation of any provisions of any of the Contract Documents will not be answered verbally, and to be given consideration must be submitted in writing to the Illinois Tollway no later than the date shown in the "Advertisement for Bids" (Page A-1). Answers, if any are given to such inquiries, will be in the form of Addenda and will be furnished to all Bidders in conformance with the Tollway Supplemental Specifications.

### **6. BID GUARANTY**

The bidder is required to furnish a Bid Guaranty in accordance with the provisions of Article 102.09 of the Tollway Supplemental Specifications.

### **7. WAGE STIPULATIONS**

This contract calls for the construction of a "public work," within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/01 et seq. ("the Act") or is a service contract subject to the prevailing wage requirement of the Illinois Procurement Code, 30 ILCS 500/25-60 (the "Code"). The Act requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the current "prevailing rate of wages" (hourly cash wages plus amount for fringe benefits) in the county where the work is performed. The Code requires vendors awarded certain service contracts to pay service workers no less than the general prevailing wage rate of hourly wages (hourly cash wages plus amount for fringe benefits in the county where the work is performed. The Illinois Department of Labor publishes the prevailing wage rates on its website <https://www.illinois.gov/idol/Laws-Rules/CONMED/Pages/Rates.aspx>. The Illinois Department of Labor revises the prevailing wage rates and the contractor/subcontractor has an obligation to check the Illinois Department of Labor's website for revisions to prevailing wage rates. For information regarding current prevailing wage rates, please refer

to the Illinois Department of Labor's website. All contractors and subcontractors rendering services under this contract must comply with all requirements of the Act and Code, including but not limited to all wage requirements and notice and record keeping duties.

The contractor to whom the contract is awarded shall insert into each subcontract and into the project specifications for each subcontract a written stipulation to the effect that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work under the contract. Each subcontractor shall insert into each lower tiered subcontract and into the project specifications for each lower tiered subcontract a stipulation to the effect that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work under the contract.

NOTE: The prevailing wages are revised by the Department of Labor and are available on the Department's official website, which shall be deemed proper notification of any rate changes under this subsection. Vendor is responsible for contacting the Illinois Department of Labor to ensure understanding of prevailing wage requirements at 217-782-6206 or (<http://www.state.il.us/agency/idol/index.htm>).

Prime contractors will be responsible for ensuring that EEO work hours including those of their subcontractors are reported in the Tollway's Capture system.

### **AMENDMENTS TO PREVAILING WAGE LAW**

Effective July 16, 2014, the Prevailing Wage Act has been amended. Below is a summary of some of the important changes that may affect you:

- For each calendar month construction on a Tollway project occurs, a certified payroll must be filed **no later than the 15th** of the following month. Note that the Tollway's LCPtracker payroll reporting and monitoring system requires weekly reporting of certified payroll.
- Payroll records must be kept for 5 years from the date of last payment on a contract or subcontract.
- Any person who willfully files a false payroll is guilty of a Class A misdemeanor.
- Any person who willfully fails to create, keep, maintain, or **produce records as or when** required by the Act is guilty of a Class A misdemeanor.
- Any contractor or subcontractor convicted or found guilty of the above is subject to **automatic and immediate debarment** and prohibited from participating in any public works project for 4 years with no right to a hearing.

The full text of the Prevailing Wage Act can be found here:

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2405&ChapterID=68>

Effective immediately, per CPO Notice 2021.03.

**EMPLOYMENT OF PUBLIC WORKERS ON PUBLIC WORKS:** In a period of excessive unemployment rates, State contractors (1) constructing or building any public works or (2) cleaning-up and disposing on-site of hazardous waste, and that clean-up or on-site disposal is funded or financed in whole or in part with State funds or funds administered by the State, are required to employ at least 90% Illinois laborers on such project. For projects involving clean-up and on-site disposal of hazardous waste, emergency response or immediate removal activities are excluded. This requirement applies to all labor whether skilled, semi-skilled or unskilled, whether manual or non-manual.

A period of excessive unemployment rates is defined as any month immediately following two consecutive calendar months during which the level of unemployment in the State of Illinois has exceeded 5% as measured by the United States Bureau of Labor Statistics in its monthly publication of employment and unemployment figures. Any public works project financed in whole or in part by federal funds administered by the State of Illinois is covered under the provisions of this requirement, to the extent permitted by any applicable federal law or regulation. 30 ILCS 570. Contractors may receive an exception from this requirement by submitting a request and supporting documents certifying that Illinois laborers are either not available or are incapable of performing the particular type of work involved. The certification must: (a) be submitted to the agency within the first quarter of the Contract Term; (b) provide sufficient support that demonstrates the exception is met; (c) be signed by an authorized signatory of the contractor; and (d) be approved by the agency.

The Act defines a period of excessive unemployment rates as any month immediately following two consecutive calendar months during which the State unemployment rate exceeds 5%. To understand the details of the Employment of Illinois Workers on Public Works Act, please read it in its entirety:

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=549&ChapterID=7>.

8. **NON-COLLUSION AFFIDAVIT**

The bidder must complete and return the Non-Collusion Affidavit furnished with the Solicitation with their bid. In the event said Affidavit is found to be false in any respect, the Illinois Tollway may, at its option, void this contract without liability on the part of the Illinois Tollway and in addition, the contractor and its surety or sureties shall be liable to the Illinois Tollway for any and all damages of every nature and description sustained, directly or indirectly, by the Illinois Tollway as a result of entering into contracts based upon, among other things, the execution of such false affidavit.

9. **AUTHORITY TO TRANSACT BUSINESS UNDER AN ASSUMED NAME**

If the bidder is doing business under an assumed name, it shall be required to furnish, prior to or at the time of submission of its bid, a certificate of registration and authorization showing that such individual or partnership is registered and authorized to conduct business in Illinois under such assumed name in accordance with Assumed Business Name Act, 805 ILCS 405/1, as amended from time to time.

10. **SECRETARY OF STATE CERTIFICATE OF GOOD STANDING**

A person, other than an individual acting as a sole proprietor, must be a duly constituted legal entity and authorized to transact business or conduct affairs in Illinois prior to execution of the contract. 30 ILCS 500/20-43. The Secretary of State Certification will be verified by the Tollway for the apparent low Bidder.

11. **TAX EXEMPTIONS**

The Illinois Tollway is currently exempted from the payment of Illinois Retailer's Occupational Tax, Use Tax, Service Tax, Municipal Taxes and Federal Excise Tax.

The tax exempt number and form will become a part of the contract with the successful Bidder.

12. **HAUL ROADS**

Attention of the contractor is directed to the probable use of public roads and streets (State, County and Municipal) for hauling loads in excess of present permitted allowance. It is the responsibility of the contractor to make proper arrangements with officials having jurisdiction for any use of public roads and

streets beyond that permitted by present regulations.

13. **ACKNOWLEDGMENT OF RECEIPT OF ADDENDA**

The bidder is required to acknowledge receipt of any addenda issued to the bidder by inserting the addendum number and the issuing date in the space provided in the solicitation.

14. **TOLLWAY POWER AND FUNDS**

The Illinois Tollway has been created and derives its power and Tollway under and pursuant to "An Act in relation to the construction, operation, regulation and maintenance of a system of toll highways, and to create the Illinois State Toll Highway Authority, and to define its powers and duties, approved August 7, 1967," (Illinois Compiled Statutes, 605 ILCS 10/1 to 605 ILCS 10/35, as amended from time to time, hereinafter called the "Act").

No payment or other obligations under this contract are or shall ever be construed to be obligations of the State of Illinois.

15. **PAYMENT OF TOLLS**

The contractor shall be required to pay the full amount of tolls, if any, incurred by it during the duration of the contract. Said tolls will not be refunded by the Illinois Tollway. Furthermore, in the event that a final determination is made by the Tollway that the contractor has failed to pay any required tolls and associated fines, the Tollway is authorized to take steps necessary to withhold the amounts of unpaid tolls and fines from any payment due the contractor by the Tollway and/or other State of Illinois office, department, commission, board or agency.

16. **INSURANCE – ROLLING OWNER CONTROLLED INSURANCE PROGRAM (ROCIP)**

Owner has arranged for this Project to be insured under a Rolling Owner Controlled Insurance Program (ROCIP) that provides certain insurance coverage for the Project. More information on the ROCIP program is in volume II (J Section), Rolling Owner Controller Insurance Program.

17. **ILLINOIS HUMAN RIGHTS ACT**

The contractor is advised that the Illinois State Toll Highway Authority has heretofore by resolution adopted all of the applicable requirements and provisions of the Illinois Fair Employment Practices Act, now the Illinois Human Rights Act (Illinois Compiled Statutes, 775 ILCS 5/1 -101, *et sequitur*, as amended from time to time) and all of the applicable rules and regulations promulgated thereunder, and that all such applicable requirements, provisions and rules and regulations are deemed to be a part of the contract and to apply to the contractor as if fully set out herein.

Illinois Department of Human Rights Public Contracts Number: Bidder shall complete and return the IDHR Public Contract Number form in Vendor Disclosure (Formerly Forms A), Part 2, or in the Illinois Procurement Gateway.

18. **MULTI-PROJECT LABOR AGREEMENT**

The Multi-Project Labor Agreement is not in effect for this contract.

19. ***RESERVED***

20. **COMPUTER GENERATED PAY ITEM PRICE PAGES FOR BIDS SUBMITTED IN ELECTRONICALLY FORMAT**

The schedule of prices for this contract is available for download in spreadsheet format on the Tollway's Online Plan Room hosted by BHFX DIGITAL IMAGING at: [www.illinoistollwaybidding.com](http://www.illinoistollwaybidding.com).

The schedule of prices is published in spreadsheet format only once when the contract is advertised, and is published as a tool to assist bidders with preparation of their bid. Any revisions to the schedule of prices, including addenda, are the responsibility of the bidder and must be included in the bid. It is the bidder's responsibility to provide an accurate bid, which includes verification that the spreadsheet version of the schedule of prices matches the final contract book P-Pages. When submitting the bid, in the event of a discrepancy between the spreadsheet schedule of prices from the online plan room, and the contract book P-Pages, the contract book P-Pages and addenda control and take precedence over the spreadsheet schedule of prices.

If you intend to submit a computer-generated bid, it must be in a form similar to the contract P-Pages and must be legible. See Page I-1, Item 4 for additional pay item pricing requirements.

P-Pages submittal responses should be submitted in an Excel and PDF format.

21. **PUBLISHED PROCUREMENT INFORMATION:**

The State publishes procurement information, including updates on the General Services eProcurement System BidBuy (<https://bidbuy.illinois.gov>), referred to as "BidBuy". Procurement information may not be available in any other form or location. Bidder is responsible for monitoring BidBuy. The State will not be held responsible if bidder fails to monitor BidBuy, or to fully complete their vendor registration in BidBuy.

22. **PROTEST REVIEW OFFICE**

Vendors may submit a written protest to the Protest Review Office following the requirements of the IDOT Standard Procurement Rules 44 ILL ADM 6.390 through 6.440. All protests shall be in writing and filed with the CPO within 7 calendar days after the protester knows or should have known of the facts giving rise to the protest. Protests filed after the 7 calendar day period will not be considered. In addition, protests that raise issues of fraud, corruption or illegal acts affecting specifications, special provisions, supplemental specifications and plans must be received by the CPO no later than 14 calendar days before the date set for opening of bids. The Protest Review Office information is as follows:

Chief Procurement Office for General Services  
Attn: Protest Review Office  
Email: [cpogs.pro@illinois.gov](mailto:cpogs.pro@illinois.gov)

23. **SUBSTANCE ABUSE PREVENTION PROGRAM (SAPP) PUBLIC ACT 95-0635**

This Public Act requires that all contractors/subcontractors have a SAPP in place, with certain requirements, **before** starting work. The requirements of this Public Act are material to the contract, and the contractor shall require the same of all approved subcontractors.

24. **STATE BOARD OF ELECTIONS REGISTRATION PUBLIC ACT 95-0971**

State Board of Elections Registration: Vendor or bidder may be prohibited from making political contributions and be required to register with the State Board of Elections. For more information, see State Board of Elections in Vendor Disclosure (Formerly Forms A), Part 5.

25. **DEPARTMENT OF HUMAN RIGHTS (DHR) PUBLIC CONTRACT NUMBER**

Any bidder who bids on public contracts must register with the IDHR to be eligible to be awarded public contracts. Any bidder who registered previously but has a DHR number of 89999-00-0 or lower must re-register to maintain eligibility. Any IDHR number of 90000-00-0 or higher is valid for five years from the date of issue. The IDHR website link is below.

[http://www2.illinois.gov/dhr/PublicContracts/Pages/IDHR\\_Number.aspx](http://www2.illinois.gov/dhr/PublicContracts/Pages/IDHR_Number.aspx)

26. **DISADVANTAGED BUSINESS PARTICIPATION**

See Special Provision for Disadvantaged Business Participation

27. **VOSB/SDVOSB PARTICIPATION**

See Special Provision for VOSB/SDVOSB Participation

28. **EQUAL EMPLOYMENT OPPORTUNITY**

See Special Provision for Equal Employment Opportunity.

29. **BID CREDIT INCENTIVE PROGRAMS**

Tollway Bid Credit Incentive Programs allow contractors or subcontractors/fabricators to earn bid credits to be used toward future Tollway construction bids. A bidder can then apply its bid credits to a maximum Bid Credit Cap assigned to each construction contract to lower their bid amount and increase the chances of winning the contract as the low bidder. Use of bid credits from the Bid Credit Incentive Programs is applicable only to construction projects advertised by the Tollway for public bidding.

See Special Provision for Bid Credit Incentive Programs included in Volume 1.

Current Tollway Bid Credit Programs:

- **CONSTRUCTIONWORKS PROGRAM**

The ConstructionWorks (CW) Program offers contractors and subcontractors/fabricators a chance to earn bid credits toward future Tollway construction bids when they hire workers from a pool of qualified and eligible CW individuals including minorities, women, ex-offenders and exonerated individuals, veterans and other traditionally underserved populations.

See the Operational Guide for CW Program at <https://www.illinoistollway.com/doing-business/diversity-development/programs/constructionworks>

- **EARNED CREDIT PROGRAM**

The Earned Credit Program (ECP) offers contractors and subcontractors/fabricators a chance to earn bid credits toward future Tollway construction bids when they hire workers from a pool of qualified and eligible Workforce Innovation and Opportunity Act (WIOA) individuals including minorities, women, ex-offenders and exonerated individuals, veterans and other traditionally underserved populations.

See the Operational Guide for Earned Credit Program at <https://www.illinoistollway.com/doing-business/diversity-development/programs/ecp>.

- **PARTNERING FOR GROWTH - CONSTRUCTION for DISADVANTAGED BUSINESS ENTERPRISE OR VETERAN-OWNED SMALL BUSINESS BID CREDIT INCENTIVE PROGRAM**

A firm performing as a mentor in an approved Partnering for Growth (P4G) – Construction relationship, providing assistance to and training of a DBE or Veteran firm can earn Bid Credits that may be used toward future Tollway construction bids.

See the Operational Guide for Partnering For Growth - Construction For Disadvantaged Business Enterprise Bid Credit Incentive Program and the Operational Guide For Partnering For Growth – Construction For Veteran-owned Small Business Bid Credit Incentive Program at <https://www.illinoistollway.com/doing-business/diversity-development/programs/partnering-for-growth>

30. **REPORTING OF COMMUNICATIONS WITH VENDORS**

Please note that written or oral communications received by the Tollway that imparts or requests material information or makes a material argument regarding potential action concerning this procurement may require reporting to the Procurement Policy Board as required by the Procurement Code. When an oral communication is made by a person required to register under the Lobbyist Registration Act (25 ILCS 170) and received by a State employee, all individuals who initiate or participate in the communication shall submit a written report to that State employee memorializing the communication and for reporting to the Procurement Policy Board. This provision is not intended to prohibit communications with State employees regarding procurement matter, but rather only requires reporting of those communications when they occur.

31. **INITIAL CONTACT INFORMATION**

The Initial Contact Person named on Page A-1 shall be familiar with assembling or obtaining the duly executed documents constituting the contract between the Illinois Tollway and the contractor.

32. **WEB-BASED PROJECT MANAGEMENT**

The Illinois Tollway will manage this project using the Tollway’s web-based project management system. The primary goal of using the web-based project management system is to create a complete project record and serve as a project archive.

Once the apparent low bidder is determined, all project correspondence occurring with the apparent low bidder will be addressed to the initial contact person via e-mail from Contract Services and via the web-based project management system. Initial correspondence is expected to consist of requests for information and responses related to DBE and subcontractor related items.

33. **SUBCONTRACTOR DISCLOSURE**

The bidder must identify, to the extent the information is known, the names, addresses and type of work for all sub-contractors that will be utilized in the performance of this contract together with the anticipated contract value each sub-contractor is expected to receive pursuant to this contract. The State may request updated information at any time. For purposes of this section, sub-contractor means a person or entity that enters into a contractual agreement with a person or entity who has a contract with the Illinois Tollway pursuant to which the person or entity provides some or all of the goods, services, real property, remuneration, or other monetary forms of consideration that are the subject of the primary Illinois Tollway contract. A person or entity is not a sub-contractor if that person only provides goods or supplies that are incidental to the performance of a contract by a person who holds the contract with the Illinois Tollway. In no event shall a sub-contractor be allowed to start work prior to approval by the Tollway.

34. **PROCUREMENT COMPLIANCE MONITORS**

Under Public Acts 96-0795, 96-0920 and 97-0895, Agency Procurement Compliance Monitors may review contract documents and any files or records related to procurements, and will report to the Chief Procurement Officer on procurement issues that may require action, and to further report on corrective action not taken by state personnel. Additionally, the Procurement Compliance Monitors may monitor the procurement process for appropriate actions and transparency.

35. **PUBLICITY**

Contractor shall not, in any advertisement, including but not limited to contractor's website or any other type of solicitation for business, state, indicate or otherwise imply that it has been endorsed by or is currently or has previously been under contract with the Illinois Tollway nor shall the Illinois Tollway's name be used in any such advertisement or solicitation without the prior written approval of the Illinois Tollway.

36. **RESPONSIBLE BIDDER AFFIDAVIT**

Public Act 97-0369 amended the Illinois Procurement Code to require a "responsible bidder" to submit a signed affidavit stating that the bidder shall maintain an Illinois office as the primary place of employment for persons employed in the construction authorized by the contract. Therefore, in accordance with the Act the Illinois Tollway is requesting each bidder to complete and submit the "Responsible Bidder Affidavit" form with their bid documents.

37. **REPORT OF A CHANGE IN CIRCUMSTANCES**

The Contractor agrees to report to the Tollway as soon as practically possible, but no later than 21 days following any change in facts or circumstances that might impact the contractor's ability to satisfy its legal or contractual responsibilities and obligations under this contract. Required reports include, but are not limited to changes in the Contractor's Certification/Disclosure Forms, the Contractor's IDOT pre-qualification status, or certification or licensing required for this project. Additionally, the contractor agrees to report to the Tollway within the above timeframe any arrests, indictments, convictions or other matters involving the contractor, or any of its principals, that might occur while this contract is in effect. The reporting requirement does not apply to common offenses, including but not limited to minor/traffic offenses.

Further, the contractor agrees to incorporate substantially similar reporting requirements into the terms

of any and all subcontractors relating to work performed under this agreement. The contractor agrees to forward or relay to the Tollway any reports received from subcontractors pursuant to this paragraph within 21 days.

Finally, the contractor acknowledges and agrees that the failure of the contractor to comply with this reporting requirement shall constitute a material breach of contract which may result in this contract being declared void.

38. **RECORD RETENTION AND AUDIT**

The contractor shall maintain in the State of Illinois, for a minimum of five years from the latter of the date of completion of the contract or the date of final payment under the contract, adequate books, records, and supporting documents from an accounting system maintained in accordance with generally accepted accounting principles to verify the amounts, recipients, uses and methods of all disbursements of funds passing in conjunction with the contract. The five year record maintenance period shall be extended for the duration of any audit in progress at the time of that period's expiration. The contractor shall at its own expense make such records available in a timely manner for inspection and audit (including copies and extracts of records) as required by the Auditor General and other State Auditors, Chief Procurement Officer, the Illinois Department of Transportation, and the Tollway's Inspector General, Internal Audit or other Tollway agents at all reasonable times and without prior notice.

The obligations of this Section shall be explicitly included in any subcontracts or agreements formed between the contractor and any subcontractors or suppliers of goods and services to the extent that those subcontracts or agreements relate to fulfillment of the contractor's obligations to the Tollway. Such subcontractor shall be required to comply with the terms and conditions of this Section and the Tollway shall be entitled to enforce a breach of that contract.

Any audit adjustment will be submitted on a final invoice for any underpayment or overpayment to the contractor or its subcontractors. The contractor shall promptly reimburse the Tollway for any overpayment, or the Tollway at its option may deduct any overpayment from any funds due the contractor, whether those funds are due under this contract or other contracts to which the contractor is a party either directly with the Tollway or as a subcontractor. In the event the contractor fails or refuses to reimburse the Tollway for an overpayment, the contractor shall be responsible for all costs, including attorney fees, incurred by the Tollway to collect such overpayment.

Failure to maintain or make available the books, records, and supporting documents required by this Section shall establish a presumption in favor of the Tollway for recovery of any funds paid by the Tollway under the contract for which adequate books, records and supporting documentation are not available to support their purported disbursement.

The contractor shall reimburse the Tollway for the total costs of an audit that identifies significant findings that would benefit the Tollway, including but not limited to reasonable attorney's fees and other expenses. Significant findings for the purposes of this provision shall be identified as an amount in excess of \$50,000 in aggregate of the audit report or findings of material performance or compliance deficiencies.

If the contractor fails to comply with these requirements, the contractor may be disqualified or suspended from bidding on or working on future contracts.

39. **INSPECTOR GENERAL**

The vendor/contractor hereby acknowledges that pursuant to Section 8.5 of the Toll Highway Act (605 ILCS 10/8.5) the Inspector General of the Illinois State Toll Highway Authority has the Tollway to conduct investigations into certain matters including but not limited to allegations of fraud, waste and abuse, and to conduct reviews. The vendor/contractor shall fully cooperate in any OIG investigation or review.

Cooperation includes providing access to all information and documentation related to the goods/services described in this Agreement, and disclosing and making available all personnel involved or connected with these goods/services or having knowledge of these goods/services. All subcontracts must inform Subcontractors of this provision and their duty to comply.

40. **ACCEPTANCE OF SCANNED SIGNATURES**

Unless otherwise specified, the parties agree that bids, contracts, certifications and disclosures, and other contract related documents to be entered into in connection with the resulting contract will be considered signed when the signature of a party is delivered by scanned image (e.g. .pdf or .tiff file extension name) as an attachment to electronic mail (email). Such scanned signature will be treated in all respects as having the same effect as an original wet ink signature.

41. **EXPATRIATED ENTITIES**

Except in limited circumstances, no business or member of a unitary business group, as defined in the Illinois Income Tax Act, shall submit a bid for or enter into a contract with a State agency if that business or any member of the unitary business group is an expatriated entity.

## PART II: Bid Requirements

Bid	Submit with Bid
Bid Listing All Addenda	Submit with Bid
Bid Bond	Submit with Bid
Vendor Disclosure or IPG Active Registered Vendor Disclosure	Submit with Bid
Responsible Bidder Affidavit	Submit with Bid
Bidder Preferences	Submit with Bid
Illinois Business Bid Preference Affidavit	Submit with Bid
Bidder List of Individual Contacts	Submit with Bid
Affidavit	Submit with Bid
Current Contractual Obligations	Submit with Bid
Disadvantaged Business Enterprise DBE 2026 and DBE 2023 (if required)	Submit with Bid
Veteran Small Business Participation VOSB 2026 and VOSB 2023 (if required)	Submit with Bid
Bid Credit Program, if applicable	Submit with Bid
Illinois Tollway Standard Terms and Conditions	Submit with Bid
State Board of Election	Will be verified by Tollway
Illinois Department of Human Rights Number	Will be verified by Tollway
Secretary of State Certificate of Good Standing	Will be verified by Tollway

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY**

**BID**

**CONTRACT NO. RR-26-9315**

Bids will be received electronically via BidBuy, the State of Illinois eProcurement system. All Bids must be received by 10:30 a.m. Local time on August 14, 2026. The system will not accept Bids after the deadline. Bids will be immediately thereafter publicly opened online and read aloud.

TO THE CHAIR OF THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY:

The undersigned hereby proposes to perform: The work under this contract includes but is not limited to demolition of an existing cafeteria including removal of all kitchen equipment and built-in cafe furniture and renovation into a new lunchroom and office spaces. Mechanical, plumbing, and electrical scopes of work are included to support the renovations and other miscellaneous work.

The services will be performed within this contract is the Veterans Memorial Tollway (I-355) at Mile Post 19.8 in DuPage County, Illinois.

The undersigned declares that the Advertisement for Bids, Instructions to Bidders, this Bid Form, IDOT Standard Specifications, Tollway Supplemental Specifications, Special Provisions, Plans, Addenda to the foregoing (if any), form of Agreement, forms of Contract Bonds, and other exhibits (if any), on file at the office of The Illinois State Toll Highway Authority have been carefully examined, and that the undersigned has inspected in detail the site of the proposed Work, and familiarized itself with all of the conditions affecting the contract, and that has satisfied itself as to The Work to be done and the conditions under which it must be carried out, and understands that in submitting this bid waives all rights to plead any misunderstanding regarding the same.

The undersigned hereby tenders this Bid to construct and complete said Work in accordance with the Plans, IDOT Standard Specifications, Tollway Supplemental Specifications (if any), and the accompanying Special Provisions now on file in the office of The Illinois State Toll Highway Authority, and the following addenda issued thereto:

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

The undersigned further agrees to furnish all necessary transportation, machinery, equipment, tools, labor and other means of construction; and to do all the work and to furnish all of the materials specified in the contract in the manner and at the times prescribed under the supervision and direction of the Tollway or its authorized representatives, for the lump sums and unit prices quoted in the following Schedule of Prices:

Accompanying this Bid is a Bid Guaranty:

- (a) Evidence by a bank draft, cashier's check or certified check on \_\_\_\_\_, Bank, for \$\_\_\_\_\_, payable to The Illinois State Toll Highway Authority, or
- (b) A Bid Bond in favor of the Authority for \$\_\_\_\_\_, with a corporate surety authorized to do business in the State of Illinois.

In the event that this bid shall be accepted by The Illinois State Toll Highway Authority, and the undersigned should fail to execute a contract with and furnish the security required by the Tollway, as set forth in the Standard Specifications, within ten (10) days after receipt of notice of the acceptance of the bid, such draft or check shall become the property of the Tollway, or if a bid bond has been submitted, the principal amount of said bid bond shall become immediately due and payable to the Tollway; otherwise the Bid Guaranty will be returned to the bidder upon written request, as soon as the contract and contract bonds have been executed. If a bid guaranty is secured by a check, the check will be returned to the bidder.

Pursuant to the provisions of the Prevailing Wage Act, [820 ILCS 130](#), the undersigned, as part of its Bid for the construction of The Illinois State Toll Highway **Contract RR-26-9315**, hereby stipulates that, if awarded a contract on said bid, it will pay the laborers, mechanics and other workers who are employed in the performance of such work hourly wages not less than the minimum hourly wages stated in the instructions to bidders; and that its computations in arriving at said bid are based on hourly wages not less than those stated in the instructions to bidders; and that if a contract be entered into under said bid, the minimum hourly wage rates stated in the instructions to bidders shall become and be a part of said contract as provided by law.

It is understood that the quantities of work and material shown herein in the Schedule of Prices of the Bid are approximate only, and are subject to increase or decrease as provided in the Standard Specifications. Such increase or decrease shall in no manner affect the validity of the Contract.

On the acceptance of this bid for said work, the undersigned will furnish and deliver the Performance and Payment Bonds, in the forms required and furnished by the Tollway and included in the contract documents, with a corporate surety acceptable to the Tollway and authorized to do business in the State of Illinois, conditioned as stated in said bonds.

The undersigned has also properly executed or caused to be executed by an officer thereof, if a corporation, the non-collusion affidavit filed with this Bid.

The undersigned submits herewith, completely filled out, form of the Tollway entitled "Current Contractual Obligations," as required by the Tollway Supplemental Specifications.

It is agreed that time is of the essence of this contract and that I (we) will, in the event of my (our) failure to complete the contract within the time limit named above, pay to The Illinois State Toll Highway Authority liquidated damages in the amount stated in the Special Provision, based on the price(s) shown in the Schedule of Prices of the bid.

The undersigned is (check one)

an individual

a Partnership

a Corporation  under the laws of the State of \_\_\_\_\_

having principal office at \_\_\_\_\_ and has furnished to the Tollway the necessary evidence of Tollway to transact business in the State of Illinois, in accordance with Paragraph 10 of the Instructions to Bidders.

Signed and sealed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by its \_\_\_\_\_, thereunto duly authorized.

\_\_\_\_\_ (SEAL)

\_\_\_\_\_ (SEAL)

Affix Corporate Seal BY:  
or Power of Attorney Where Applicable

Information below to be typed or printed where applicable.

INDIVIDUAL:

_____	_____
Name	Address

PARTNERSHIP - NAME AND ADDRESS OF GENERAL PARTNERS:

_____	_____
Name	Address

_____	_____
Name	Address

_____	_____
Name	Address

INCORPORATED:

_____	_____
President	Address

_____	_____
Vice-President	Address

_____	_____
Secretary	Address

_____	_____
Treasurer	Address

## Bid Notes

Each bid solicitation will have a contract-specific Bid Credit cap on the amount of Bid Credit that can be applied to the contract. This particular solicitation has a Bid Credit cap of \$30,000.00. Any Bid Credits applied above and beyond the Bid Credit cap will not be considered.

- A. Core Work shall be the sum of the unit prices supplied by the bidder multiplied by the pay item quantity.
- B. Unit prices for Contractor's Quality Program and Contingency Work will be supplied by the Illinois Tollway with the sum total of this work completed by the Illinois Tollway and included in the P-pages.
- C. Base Bid will be calculated as: Total Amount of Core Work + Contractor's Quality Program + Total Amount of Contingency Work
- D. Bid Credit is to include the total amount of Bid Credits applied to the bid
- E. Award Criteria will be calculated by the Illinois Tollway and will be calculated as follows: Base Bid minus Bid Credit.

All Bid Credit Certificates used to arrive at the Bid Credit included on Bid Credit Line must be included in the original bid package. If omitted in error, the Bid Credit Certificate must be submitted within 48-hours of the Tollway's request. If not submitted within 48-hours of the Tollway's request, use of the Bid Credit will be prohibited. All Bid Credit Certificates applied to a successful bid will become null and void at the time the bidder's award criteria figure is deemed the lowest most responsible and responsive bid and the bid is awarded by the Illinois Tollway's Board of Directors, at which time the Bid Credit Certificate shall not be available for inclusion in any other bid.

All blank spaces for bid prices must be filled in with the unit price, or lump sum price, and the total price for each and every item (which prices must be more than \$0.00). Bids which do not contain a price for every item listed in the Schedule of Prices for the Contract being bid, will not be considered, unless alternate bids are requested.

The contractor shall complete all work under this Agreement for the performance of contract No. RR-26-9315 as specified in S.P. 103.1

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY  
 CONTRACT RR-26-9315  
 VETERANS MEMORIAL TOLLWAY(I-355)  
 FACILITY IMPROVEMENTS  
 AT CENTRAL ADMINISTRATON BUILDING  
 MILE POST 19.8  
 SCHEDULE OF PRICES**

S.P.	PAY ITEM NO.	DESIGNATION	UNIT	QUANTITY	UNIT PRICE DOLLAR	AMOUNT DOLLAR
**	JS671020	MOBILIZATION, TOLLWAY (MODIFIED)	L SUM	1		
*	JT130110	SITE AND BUILDING CONSTRUCTION	L SUM	1		
TOTAL AMOUNT OF CORE WORK						
*	JT155001	CONTRACTOR'S QUALITY PROGRAM	L SUM	1	\$9,000.00	\$9,000.00
*	JT154067	CONTRACT ALLOWANCE FOR CONSTRUCTIONWORKS APPRENTICES	UNIT	25,000	\$1.00	\$25,000.00
*	JT154118	ALLOWANCE FOR UNFORESEEN CONDITIONS	UNIT	50,000	\$1.00	\$50,000.00
**	999NEG32	LIQUIDATED DAMAGES FOR DELAY IN SUBMITAL OF PROGRESS SCHEDULE PER TOLLWAY S.P.108.02(e)	DAY		(\$200.00)	
**	999NEG44	LIQUIDATED DAMAGES FOR NON-COMPLETION PER S.P. 105.1.1	CAL DAY		(\$1,000.00)	
**	999NEG45	LIQUIDATED DAMAGES FOR NON-COMPLETION PER S.P. 105.1.2	CAL DAY		(\$1,000.00)	
*	999NEG53	NON-COMPLIANCE WITH CONTRACTOR QUALITY PROGRAM SPECIAL PROVISION	OCCUR		(\$1,000.00)	
*	999ADJ45	CONSTRUCTIONWORKS APPRETTICES WAGE RATE PAYMENT	HOUR		\$15.00	
TOTAL AMOUNT OF CONTINGENCY WORK + CONTRACTOR'S QUALITY PROGRAM (CQP)						\$84,000.00

TOTAL AMOUNT OF CORE WORK + TOTAL AMOUNT OF CONTINGENCY WORK + CONTRACTOR'S QUALITY PROGRAM = TOTAL AMOUNT OF BASE BID	
BID CREDIT	
AWARD CRITERIA	

S.P. COLUMN LEGEND

- \* INDICATES SPECIAL PROVISION
- \*\* INDICATES TOLLWAY SUPPLEMENTAL SPECIFICATIONS

## **FINANCIAL DISCLOSURES AND CERTIFICATIONS**

### **ALERT:**

**YOUR BID WILL BE DEEMED NON-RESPONSIVE and will be REJECTED if Financial Disclosures / Certifications are not submitted with your bid!**

All vendors responding to an Illinois Tollway solicitation must comply with Illinois Procurement Code 30 ILCS 500 -- specifically section 50-35 Financial Disclosures and Potential Conflicts of Interest. The Illinois Procurement Gateway (IPG) is a web based system that serves as the primary location for entering, organizing, and reviewing vendor information. The IPG allows prospective vendors to provide disclosures, registrations, and other documentation needed to do business with a State agency or university in advance of any particular procurement. It is highly recommended that vendors register on the Illinois Procurement Gateway at <https://ipg.illinois.gov/>

The submittal shall contain either Vendor Disclosure (Formerly Forms A) or IPG Active Registered Vendor Disclosure (Formerly Forms B). Bids submitted without Vendor Disclosure or IPG Active Registered Vendor Disclosure shall be deemed non-responsive.

Vendor Disclosure (Formerly Forms A) section contains eight forms and shall be returned by bidders that are not registered in the Illinois Procurement Gateway (IPG).

IPG Active Registered Vendor Disclosure (Formerly Forms B) contains three forms and shall be returned by bidders that have a current, approved IPG registration.

#### ***Vendor Disclosure (Formerly Forms A) Section***

*Complete this section if you are not using an Illinois Procurement Gateway (IPG) Registration.*

<https://www.illinoistollway.com/doing-business/construction-engineering/forms>

1. Business and Directory Information
2. Illinois Department of Human Rights Public Contracts Number
3. Authorized to Do Business in Illinois
4. Standard Certifications
5. State Board of Elections
6. Disclosure of Business Operations in Iran
7. Financial Disclosures and Conflicts of Interest
8. Taxpayer Identification Number
9. Signature

#### ***IPG Active Registered Vendor Disclosure (Formerly Forms B) Section***

*Complete this section only if you are using a current, approved IPG Registration.*

<https://www.illinoistollway.com/doing-business/construction-engineering/forms>

1. Certification of Illinois Procurement Gateway Registration #
2. Certification Timely to this Solicitation
3. Disclosures of Lobbyist or Agent
4. Disclosure of Current and Pending Contracts
5. Signature

The Illinois Procurement Code requires the Tollway to collect financial disclosures from any known subcontractor with anticipated participation in excess of \$100,000.00 at the time of the bid. Subcontractor disclosures will be requested from the successful Bidder for any subcontractor identified in the bid immediately after the Bidder is determined to be the lowest responsive / responsible Bidder.

## **REMINDER TO VENDORS SUBMITTING IPG ACTIVE REGISTERED VENDOR DISCLOSURE**

Vendors intending to fulfill certification and disclosure requirements by supplying the State with their Illinois Procurement Gateway registration number, expiration date, and "IPG Active Registered Vendor Disclosure" documents must read this clarification document in its entirety.

**VENDORS UTILIZING "FORMS B" MUST BE REGISTERED SPECIFICALLY WITH THE ILLINOIS PROCUREMENT GATEWAY TO BE DEEMED RESPONSIVE TO THIS SOLICITATION.**

In order to verify that you are registered with the Illinois Procurement Gateway (IPG), please click on "Registered Vendor Directory" on the IPG homepage (<https://ipg.illinois.gov/>). Search for your Business Name. If your company does not appear in the search results, then you are not registered in the IPG.

To use IPG Active Registered Vendor Disclosure, vendors must be listed in the "Registered Vendor Directory" as described above, and provide a valid registration number with expiration date from the Illinois Procurement Gateway. Please note that it is possible for vendors who have registered with another government entity (such as the City of Chicago's Compliance and Certification portal) using the same portal software, to have a registration number and expiration date for a different (non-State of Illinois) application process. *Registration information from other government entities will not be accepted.*

If the "Registered Vendor Directory" does not list your company, then you must utilize the "Vendor Disclosure (Formerly Forms A)" option to meet the certification and disclosure requirements of this solicitation.

Every bid submitted to and contract executed by the State, and every subcontract subject to Section 20-120 of the Procurement Code shall contain a certification by the Bidder, contractor, or sub-contractor under the Section, and acknowledge that the Chief Procurement Officer may declare the related contract void if any of the certifications are false.

**ILLINOIS STATE TOLL HIGHWAY AUTHORITY**

**PREFERENCES**

The Illinois Procurement Code provides various preferences to promote business opportunities in Illinois.

Does Bidder make any claims for preferences? If so, please mark the applicable preference(s) and include a listing of the items that qualify for the preference at the end of this Section and a description of why the preference applies. Agency reserves the right to determine whether the preference indicated applies to Bidder.

- Resident Bidder (30 ILCS 500/45-10).
- Recycled Materials (30 ILCS 500/45-20).
- Environmentally Preferable Supplies (30 ILCS 500/45-26).
- Gas Mileage (30 ILCS 500/45-40).
- Small Businesses (30 ILCS 500/45-45).
- Corn-based Plastics (30 ILCS 500/45-55).
- Bio-based Products (30 ILCS 500/45-75).
- Steel Products Procurement (30 ILCS 565).
- Veterans Preference (330 ILCS 565).
- Illinois Business (30 ILCS 500/45-105).**
- Soybean Oil-Based Ink (30 ILCS 500/45-15).
- Recycled Paper (30 ILCS 500/45-25).
- Correctional Industries (30 ILCS 500/45-30).
- Illinois Mined Coal (30 ILCS 555).
- Illinois Agricultural Products (30 ILCS 500/45-50).
- Disabled Veterans (30 ILCS 500/45-57).
- Historic Preferences Area (30 ILCS 500/45-80).
- Public Purchases in Other States (30 ILCS 520).

**To claim the Illinois Business Preference, vendor must complete and include the provided affidavit.**

- Not-for-Profit Agencies for Persons with Significant Disabilities (30 ILCS 500/45-35).
- Business Enterprise for Minorities, Women, and Persons with Disabilities Act (30 ILCS 575).
- Vehicles Powered by Agricultural Commodity-Based Fuel (30 ILCS 500/45-60).
- Procurement of Domestic Products (30 ILCS 517).

To claim the Domestic Product Preference, vendor must enter "Domestic Product" in the Alternate Description field of each line item (product) for which you claim the preference.

- Proposed product is manufactured in Illinois (30 ILCS 517).

Items that Qualify and Explanation: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The undersigned authorized representative of the identified Bidder hereby submits this Bid to perform in full compliance with the subject solicitation. By completing and signing this form, the Bidder makes a Bid to the State of Illinois that the State may accept.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name of Signatory

\_\_\_\_\_  
Bidder's Name

\_\_\_\_\_  
Date



# Affidavit Illinois Business Bid Preference 30 ILCS 500/45-105

Vendor Name

Project Title  BidBuy Ref Number

### 1. Applicable Law

In procuring construction services for projects with a total value that exceeds the small purchase maximum established by Section 20-20 of the Illinois Procurement Code, construction agencies shall provide a bid preference to a responsive and responsible bidder that is an Illinois business as defined in this Section. The construction agency shall allocate to the lowest bid by an Illinois business that is responsible and responsive a bid preference of 4% of the contract base bid. This applies only to projects where a business that is not an Illinois business submits a bid. 30 ILCS 500/45-105 (e).

The chief Procurement officer shall require at the time of submission of a bid, and may require at the chief procurement officer's option at any time during the term of the contract, that the bidder or contractor submit an affidavit and other supporting documents demonstrating that the bidder or contractor is an Illinois business and, if applicable, submit an affidavit and other supporting documents demonstrating that the bidder or contractor is eligible for a 4% bid preference under Section 45-105 of the Illinois Procurement Code. 30 ILCS 500/45-105 (e-5).

If a contractor who is awarded a contract through the use of a preference for Illinois businesses provided false information in order to obtain that preference, then the contractor is subject to disciplinary procedures as identified in Section 50-65 of the Illinois Procurement Code. 30 ILCS 500-45-105 (e-10).

Section 45-105 of the Illinois Procurement Code does not apply to any contract for any project for which federal funds are available for expenditure when its provisions may be in conflict with federal law or federal regulation. 30 ILCS 500/45-105 (f).

As used in Section 45-105 of the Illinois Procurement Code, "Illinois business" means a contractor that is, for at least one year prior, operating and headquartered in Illinois, subject to applicable State taxes, and providing, at the time that an invitation for a bid or notice of contract opportunity is first advertised, construction services. "Illinois business" includes a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State where it is operating, headquartered, and performing construction services at least one year before an invitation for a bid or notice of contract opportunity is first advertised. "Illinois business" does not include any subcontractors or businesses headquartered outside of the State that have an affiliated entity operating in the State. 30 ILCS 500/45-105 (g).

### 2. Instructions

- Provide this completed affidavit and attach supporting documents to the affidavit at the time of bid submission to claim eligibility for the Illinois business bid preference of 4%. Failure to provide this affidavit and supporting documents at the time of bid submission shall result in the bidder not receiving the bid preference. Failure to demonstrate that the bidder is an Illinois business shall result in the bidder not receiving the bid preference.
- In its determination of whether a bidder is an Illinois business that is operating and headquartered in Illinois, a bidder may consider factors including whether the business has a physical location, excluding job site trailers, within the State of Illinois where the executives for the business, or high-level officers for a corporation, direct, control, and coordinate the business's or corporation's activities.
- Provide with this affidavit the following supporting documents: (1) names and titles of the executives for the business, or names and titles of high-level officers if a corporation, (2) the job descriptions of the executives or high-level officers, (3) the address of the executives' or high-level officers' office, and (4) if applicable, the most recently completed and filed Illinois tax return for the business.

**Add Attachment(s)**



**Affidavit**  
**Illinois Business Bid Preference 30 ILCS 500/45-105**

Vendor Name

Project Title  BidBuy Ref Number

**3. Attestation**

Legal Name ("Affiant")

Job Title

Business Name ("Bidder")

BidBuy Reference Number

In my official capacity with the Bidder, I have personal knowledge and am authorized to affirm that the Bidder is an Illinois business and eligible to claim the bid preference pursuant to 30 ILCS 500/45-105.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109], the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

Affiant's signature  Date

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY**

**CONTRACT NO. RR-26-9315**

**LIST OF INDIVIDUAL CONTACTS**

The bidder is hereby requested to list those individuals to be contacted for information regarding the analysis of the various portions of the bid.

<u>ITEM</u>	<u>INDIVIDUAL</u>	<u>TELEPHONE NO.</u>	<u>E-MAIL</u>
Schedule of Prices			
Progress Schedule			
Current Contractual Obligations			
Bid Guaranty			
Financial Statement			
EEO Program			
Financial Disclosures Vendor Disclosure or IPG Active Registered Vendor Disclosure			
Standard Business Terms and Conditions			
Non-Collusion Affidavit – Page R-3			
Responsible Bidder Affidavit – Page R-4			



**RESPONSIBLE BIDDER AFFIDAVIT**  
**in accordance with**  
**Illinois Procurement Code Section 30 ILCS 500/30-22(8)**

**CONTRACT NO:**

\_\_\_\_\_  
(Enter Tollway Contract Number)

**SUBMITTING BIDDER:**

\_\_\_\_\_  
(Enter Name of Firm)

**ADDRESS:**

\_\_\_\_\_  
\_\_\_\_\_

STATE OF ILLINOIS

)

SS

COUNTY OF \_\_\_\_\_

)

)

The Affiant, \_\_\_\_\_, being first duly sworn, upon oath  
deposes and says:

1. That the Affiant is \_\_\_\_\_ of \_\_\_\_\_ who is the  
bidder on the above referenced contract by the Illinois State Toll Highway Authority, hereinafter "Owner"  
for the contract known as \_\_\_\_\_ (*enter Tollway contract number*), between the bidder and the  
Owner;
2. The Affiant hereby states that the bidder will maintain an Illinois office as the primary place of  
employment for persons employed in the construction authorized by said contract if contract is so awarded.

**I am duly authorized to make this Affidavit. I know and understand the contents of this  
Affidavit, and all statements herein are true and correct.**

\_\_\_\_\_  
**SIGNATURE OF AFFIANT**

**SUBSCRIBED AND SWORN BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.**

\_\_\_\_\_  
**NOTARY PUBLIC**

**CONTRACT NO. RR-26-9315**

**CURRENT CONTRACTUAL OBLIGATIONS**

Entries on this sheet are to **cover all construction work under contract or verbal performance agreement or pending award** to the contractor signing, whether as principal or as sub-contractor and with any owner including the United States government.

**WORK NOW UNDER CONTRACT AS PRINCIPAL**

CONTRACT NUMBER	CONTRACT ENTERED INTO WITH (OWNER OR AGENCY)	VALUE OF WORK UNEARNED	TYPE OF WORK YET TO BE PERFORMED	ESTIMATED COMPLETION DATE

TOTAL UNDER CONTRACT AND UNEARNED

**WORK AS SUB-CONTRACTOR**

CONTRACTOR	OWNER OR AGENCY	VALUE OF WORK UNEARNED	TYPE OF WORK YET TO BE PERFORMED	ESTIMATED COMPLETION DATE

TOTAL SUBLET AND UNEARNED

**LOW BIDS SUBMITTED, OPENED AND NOT APPROVED**

CONTRACT NUMBER	OWNER OR AGENCY	VALUE OF WORK UNEARNED	TYPE OF WORK YET TO BE PERFORMED	ESTIMATED COMPLETION DATE

TOTAL OF BIDS PENDING AWARD \_\_\_\_\_

I hereby certify that, to the best of my knowledge and belief, the above tabulations are true and complete and that my/our latest financial statement is available upon request to verify my/our financial position as of this date.

\_\_\_\_\_  
BIDDER

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SUB-CONTRACTOR

\_\_\_\_\_

BY: \_\_\_\_\_ SIGNATURE

\_\_\_\_\_  
SUB-CONTRACTOR

\_\_\_\_\_  
TITLE

**Illinois State Toll Highway Authority**  
**SPECIAL PROVISION**  
**FOR**  
**DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION**

**1. POLICY STATEMENT**

It is the policy of the Illinois State Toll Highway Authority (“ISTHA” or “Tollway”) that qualified and *bona fide* Disadvantaged Business Enterprises (DBEs), as that term is defined herein, have maximum feasible opportunities to participate fully in the performance of all contracts funded and administered by the Tollway. The Tollway seeks to ensure non-discrimination in the award and administration of its contracts and associated subcontracts and that it is not a passive participant in a discriminatory marketplace; to create a level playing field on which DBEs can compete fairly for its contracts; to ensure that its Special Provision is narrowly tailored in accordance with applicable law; to ensure that only firms that meet the eligibility standards are permitted to participate as DBEs; and to help to remove barriers to participation of DBEs in Tollway contracts and associated subcontracts.

Consistent with this policy, it is the responsibility of all contractors for general contracting work and a specific condition of all Tollway contracts to which they are parties to ensure full and fair opportunities for DBEs to compete in contracts funded and administered by the Tollway and to fully comply with this Special Provision.

**2. DEFINITIONS**

For the purposes of this Special Provision, the following terms shall have the following meanings:

*Affiliate* of a person or entity means a person or entity that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person or entity. In determining Affiliation, the Tollway shall consider all appropriate factors, including common ownership, common management, and contractual relationships.

*Broker* means a person or entity that fills orders by purchasing or receiving supplies from a third-party supplier rather than out of its own existing inventory and provides no substantial service other than acting as a conduit between his or her supplier and his or her customer.

*Commercially Useful Function* means responsibility for the execution of a distinct element of the work of the contract, which is carried out by actually performing, managing, and supervising the work involved, or fulfilling responsibilities as a Joint Venture partner.

*Contingency Work* is the anticipated work within the scope of the project which is included in the project to cover the work of such an uncertain nature that the location or quantity could not be identified prior to awarding the contract.

*Core Work* is the anticipated work within the scope of the project which is included in the project to cover the work of such a nature that the location and estimated quantity could be identified prior to awarding the contract.

*Disadvantaged Business Enterprise (“DBE”)* means a business currently certified by the Illinois Unified Certification Program (“ILUCP”) pursuant to 49 C.F.R. Part 26, or a business currently certified by the City of Chicago, Illinois or the County of Cook, Illinois, as a Minority or Women-Owned Business (“M/WBE”) pursuant to its M/WBE program for construction contracts, Art. IV, § 2-92-650, *et seq.*, as amended, or a business currently certified by the U.S. Small Business Administration (SBA) pursuant to the Small Business Act as an SBA 8(a) business, owned and operated by a socially and economically disadvantaged person. A DBE is considered to have current certification if the firm is listed in the directory database of the pertinent certifying agency.

*DBE Joint Venture* means an association of two or more persons, or any combination of types of business enterprises and persons numbering two or more, proposing to perform as a single for profit business enterprise, in which each Joint Venture partner contributes property, capital, efforts, skill and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the project and whose share in the capital contribution, control, management, risks, and profits of the Joint Venture are equal to its ownership interest. Joint Ventures must have an agreement in writing specifying the terms and conditions of the relationships between the partners and their relationship, risks and responsibility under the contract.

*DBE Utilization Plan* means the list of currently certified DBEs that the Bidder commits will be utilized, including its own participation as a DBE, if applicable, in the scopes of the work and the dollar values or the percentages of the work to be performed pursuant to this solicitation and in conformance with this Special Provision.

*Good Faith Efforts* means actions undertaken by a contractor to achieve a DBE contract goal, which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the contract goal.

*Mobilization* means preparatory work and operations necessary for the movement of personnel, equipment and incidentals to the project site for the establishment of offices, buildings and other facilities necessary for work on the project and for all other work operations which must be performed, or costs incurred when beginning work on the project.

*Regular Dealer* means a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a Regular Dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A firm may be a Regular Dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business if the firm both owns and operates distribution equipment for the products. Any supplementing of a Regular Dealer's distribution equipment shall be by a long-term lease agreement and not on an *ad hoc* or contract-by-contract basis. Packagers, manufacturer representatives, or other persons who arrange or expedite transactions are not Regular Dealers.

### 3. CONTRACTOR ASSURANCE

The contractor will assure that each of its employees and its subcontractors' employees associated with the contract shall not discriminate on the basis of any protected category identified by law in the performance of this contract. Failure by the contractor 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 Tollway deems appropriate.

### 4. DBE CONTRACT GOAL TO BE ACHIEVED BY THE CONTRACTOR

This contract includes a specific DBE utilization goal of **27.0** % of the Core Work of the contract. The goal reflects the estimated availability of DBEs to perform the scopes of work of this contract, including as a prime contractor. Consequently, in addition to the other award criteria established for this contract, ISTHA will award this contract to a Bidder who either meets this goal or who demonstrates its good faith efforts to do so. The participation of DBEs will be calculated on the amount of the Core Work, not Contingency Work identified in the bid documents. **The Contractor's DBE commitment will be assessed for any and all Extra Work Orders (EWO) and Change Orders (CO) at the time such orders are issued.**

### 5. DBE, M/WBE and SBA 8(a) LOCATOR REFERENCES

Bidders should consult the Illinois Unified Certification Program ("ILUCP") DBE Directory as a reference source for DBEs and the City of Chicago, the County of Cook M/WBE directories as reference sources for M/WBEs in construction certified by the City of Chicago or the County of Cook, or the Small Business Administration SBA 8(a) directory for SBA 8(a)s certified

by the Small Business Administration. Only firms certified by the IL-UCP, the City of Chicago, the County of Cook, or the Small Business Administration **at the time of bid opening** are eligible to be considered for contract award to either meet the contract goal or establish the Bidder's good faith efforts to do so.

These directories are to be used as an informational source only. Certification does not mean that a firm is in any way prequalified to provide the products and/or services in its certification specialty. "Certification" means that the ILUCP, the City of Chicago, the County of Cook, or the Small Business Administration has determined, on the basis of information provided and the representations therein, that a business is a *bona fide* DBE. The ILUCP, the City of Chicago, the County of Cook or the Small Business Administration does not, as a result of listing, make any representation concerning the ability of any listed firm to perform work in the specialty listed. The Tollway does not, through its use of and referral to ILUCP DBE, the City of Chicago, the County of Cook MBE/WBE, and the Small Business Administration SBA 8(a) lists, make any representation concerning the ability of any listed firm to perform work in its certification specialty. The Bidder must conduct its own due diligence regarding the capabilities of certified firms to perform the work of the contract.

## **6. BIDDING PROCEDURES**

Compliance with the bidding procedures of this Special Provision is required as provided in this Special Provision prior to the award of the contract. The failure of the as-read low Bidder to comply will render the bid non-responsive.

### **6.1 Submission of the Disadvantaged Business DBE Utilization Plan, DBE Form 2026**

A Bidder must submit a Disadvantaged Business DBE Utilization Plan on ISTHA DBE Form 2026 **with the bid submission**.

This is also a requirement in the case where a prime Bidder is also a DBE, is certified to perform a portion of the contract work as indicated on the DBE's Certification submitted at time of bid, and will meet the DBE goal via a self-performance requirement on the contract greater than or equal to the DBE goal for the contract. If the Bidder is a DBE Joint Venture, each Joint Venture partner must provide the attestation to the DBE Utilization Plan, Form 2026.

Otherwise, if the DBE Utilization Plan is not submitted at time of bid, then the bid will be deemed non-responsive. If the bid is deemed non-responsive due to a failure to submit a DBE Utilization Plan or failure to comply with the bidding procedures set forth herein, ISTHA may elect to cause the forfeiture of the penal sum of the Bidder's bid guaranty, and may deny authorization to bid the project if re-advertised for bids.

The DBE Utilization Plan shall indicate that the Bidder either has obtained sufficient DBE participation commitments to meet the contract goal or demonstrate and document its good faith efforts to meet the goal. The DBE Utilization Plan will also require the name of each DBE firm proposed for use on the contract along with a brief scope of work and dollar amount to be assigned to the DBE. The DBE Utilization Plan shall further provide the name, telephone number, and email address of a responsible official of the Bidder designated for purposes of notification of DBE Utilization Plan approval or disapproval under the procedures of this Special Provision.

Any agreement between a contractor and a DBE or other subcontractor in which the contractor requires that the DBE not provide subcontracting quotations to other contractors is prohibited.

### **6.2 Submission of the DBE Participation Commitment Statement, DBE Form 2025**

The Utilization Plan must be supported by the submission of a detailed DBE Participation Commitment Statement, Form 2025, for each DBE proposed for the performance of work to achieve the contract goal. DBE Form 2025 is required from the lowest apparent bidder on the fifth (5<sup>th</sup>) calendar day after bids are due or the bid will be deemed non-responsive.

The submission of DBE Form 2025 should be via email to [contractcompliance@getipass.com](mailto:contractcompliance@getipass.com).

In no case should a contractor remove, replace, or reduce the commitment to a DBE listed in the initial Utilization Plan Form 2026 without prior written consent of ISTHA. Under no circumstances is the Bidder allowed to change the amount of the core bid submitted or any other documentation unrelated to this special provision.

The signatures on these forms must be original signatures. All elements of information indicated on Form 2025 must be provided, including but not limited to:

- 6.2.1 The name and address of each DBE to be used;
- 6.2.2 A full description, including pay item numbers for DBEs or associated pay items for trucking services, of the commercially useful function to be performed by each DBE. Descriptions such as “miscellaneous” and prices such as “lump sum” are not acceptable. Contingency Work must not be included under Pay Items and will not be approved toward DBE goal participation until such time that those pay items have been confirmed as required work of the contract.
- 6.2.3 Direct Allowance items will not be approved toward DBE participation in the DBE Utilization Plan.
- 6.2.4 Mobilization costs should be included in the cost of the pay item for which it is associated rather than as a separate pay item on the DBE Utilization Plan, DBE Form 2025 for DBE subcontractors.
- 6.2.5 If the DBE is the Prime Contractor, the Mobilization pay item may be approved toward DBE participation in the DBE Utilization Plan.
- 6.2.6 The price to be paid to each DBE for the identified work, specifically stating the quantity, unit price and total subcontract price for the work to be completed by the DBE. If partial pay items are to be performed by the DBE, the Form must indicate the portion of each item, a unit price where appropriate and the subcontract price amount;
- 6.2.7 A commitment statement signed by the Bidder and each DBE evidencing availability and intent to perform a commercially useful function on the project; and
- 6.2.8 If the Bidder is a joint venture comprised of DBEs and non-DBEs, the Plan must also include a clear identification of the portion of the work to be performed by the DBE joint venture partner(s).
- 6.2.9 If the Bidder is unable to meet the goal, it must demonstrate it made good faith efforts to do so, as described in this Special Provision and detailed in section 6.6 below.
- 6.2.10 The contract will not be awarded until the DBE Utilization Plan, including if applicable, the bidder’s good faith efforts to meet the goal, is approved by ISTHA. The DBE Utilization Plan will be approved if it demonstrates that DBEs will be used to perform a commercially useful function sufficient to meet the contract goal, or that the Bidder made sufficient good faith efforts, as defined in this Special Provision, to meet the goal.

### **6.3 Counting DBE Participation**

The DBE Utilization Plan’s DBE commitments represent work expected to be performed and paid for upon satisfactory completion. ISTHA is only able to count toward the achievement of the contract goal the value of payments made for the work actually performed by DBEs. The Tollway will count DBE participation, and the contractor will receive credit towards meeting the DBE contract goal, as follows:

- 6.3.1 The entire amount of that portion of work that the DBE is certified to perform, as indicated on the DBEs Letter of Certification, and that is performed by the DBE’s own forces either as the contractor or a subcontractor shall be counted, including the cost of supplies and materials obtained by the DBE for the work of the contract, and supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE purchases or leases from the prime contractor or the prime contractor’s affiliate). **Work that the DBE subcontracts to a non-DBE does not count toward the DBE goal.**

- 6.3.2 The entire amount of fees or commissions charged by a DBE for providing a *bona fide* service, such as professional, technical, consultant or managerial services, or for providing bonds or insurance specifically required for the performance of a contract, shall be counted, provided the fee is reasonable and not excessive as compared with fees customarily charged for similar services.
- 6.3.3 One hundred percent of the cost of trucking services utilized on the contract shall be counted, provided the DBE is responsible for the management and supervision of the entire trucking operation for which it is responsible. At least one truck owned, operated, licensed and insured by the DBE must be used on the contract. Credit will only be applied for trucking activity to and from the ISTHA job site. Credit will be given for the following: (1) the DBE may lease trucks from another DBE, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract. (2) The DBE may also lease trucks from a non-DBE, including from an owner-operator. Goal credit will be limited to the value of the reasonable fee or commission received by the DBE for trucks that are leased from a non-DBE.
- 6.3.4 When a DBE performs as a participant in a Joint Venture, only the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the Joint Venture's contract that is performed by the DBE with its own forces and for which it is separately at risk, shall be counted. A Joint Venture may also count the dollar value of work subcontracted to DBEs other than the DBE Joint Venture partner(s). Work performed by the forces of the non-DBE joint venture partner shall not be counted toward the DBE goal. The Tollway will evaluate the Joint Venture agreement, which must be submitted with the DBE Utilization Plan, for conformance with this Special Provision and eligibility for credit towards meeting the goal. The agreement must describe in detail the financial contribution of each partner; the list of personnel and equipment contributed and used by each partner; the responsibilities of each partner for each aspect of the joint venture; if applicable, the bonding capacity of each partner; if applicable, the prequalification status of each partner; the basis and distribution of all profits and losses; and any other elements deemed relevant by the Tollway.
- 6.3.5 One hundred percent of the cost of the materials obtained from a DBE Manufacturer, as that term is defined in 49 C.F.R. § 26.55(e) shall be counted towards the DBE contract goal. Sixty-percent of the cost of the materials or supplies obtained from a DBE Regular Dealer or Supplier, as those terms are defined in 49 C.F.R. § 26.55(e), shall be counted towards the DBE contract goal. One hundred percent of the fees or transportation charges for the delivery of materials or supplies required on a job site shall be counted towards the DBE contract goal only if the payment of such fees is a customary industry practice and are commensurate with fees customarily charged for similar services.
- 6.3.6 One hundred percent credit will be counted towards the DBE contract goal for the value of fees and commissions for the procurement of materials and supplies if the DBE is not a regular dealer or manufacturer, provided such fees or commissions are determined by the Tollway in its sole discretion to be reasonable and not excessive as compared with fees customarily allowed for similar services. No portion of the cost of the materials or supplies themselves shall be counted towards the contract goals.
- 6.3.7 When a DBE firm loses its DBE eligibility and certification, the following actions must be taken:
- (a) When a prime contractor has made a commitment to using an ineligible DBE firm but a decertification notice is issued before the prime contractor executes a subcontract, the ineligible firm does not count toward the contract goal, and the prime contractor must be directed to meet the contract goal with an eligible DBE firm or demonstrate that it has made a good faith effort to do so.
- (b) When the Tollway has made a commitment to using an ineligible DBE prime contractor, but a decertification notice is issued before the contract is awarded to the ineligible DBE firm, the ineligible DBE firm does not count toward the contract goal and the Tollway must meet the contract goal with an eligible DBE firm.

(c) If a prime contractor executes a subcontract with a DBE firm before the firm loses its DBE eligibility and certification, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward the DBE goal for the firm's work. In this case, or in a case where a prime contract has been awarded to a DBE that is later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after the notice of ineligibility is issued may count toward the contract goal.

In determining achievement of the contract goal, the participation of a DBE shall not be counted until that amount has been paid to the DBE.

#### **6.4 Demonstrating Commercially Useful Function**

Only expenditures to a DBE that is performing a Commercially Useful Function shall be counted. To determine whether a DBE is performing a Commercially Useful Function, the Tollway will evaluate the amount of work subcontracted, industry practices, whether the amount the DBE is to be paid under the contract is commensurate with the work it is actually performing and other relevant factors. A DBE performs a commercially useful function when it is responsible for the execution of the work and is carrying out its responsibilities by actually performing, managing, and supervising the work involved.

6.4.1 To perform a commercially useful function, the DBE must be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.

6.4.2 A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, ISTHA will examine similar transactions, particularly those in which DBEs do not participate.

6.4.3 If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, ISTHA will presume that the DBE is not performing a commercially useful function. When a DBE is presumed not to be performing a commercially useful function as provided in this section, the DBE and the contractor may present evidence to rebut this presumption.

#### **6.5 Extended Documentation Period for Low Apparent Bidders with a DBE Commitment Below the Advertised DBE Goal**

Each contractor identified as the low Bidder who has a DBE commitment less than the advertised DBE goal shall be allowed, upon email notification from the Tollway, an extended documentation period which will extend until 5:00 pm CT on the second business day after the day the notification is sent (e.g. if a Bidder is notified on Monday, extended documentation period concludes on Wednesday at 5pm). The extended documentation period allows contractors solely to supplement their initial Utilization Plan to add DBE participation to meet the stated DBE participation goal or to demonstrate additional good faith efforts in obtaining DBE participation. The contractor may take other action beyond any stated additional efforts in order to obtain additional DBE commitments. The contractor shall submit an amended DBE Utilization Plan if additional DBE commitments to meet the contract goal are secured by the end of the extended documentation period. If additional DBE commitments sufficient to meet the advertised contract goal are not secured, the contractor shall report the final good faith efforts made during the extended documentation period along with a request for a waiver pursuant to section 6.6 of this section. All additional efforts taken by the Bidder before and during the extended documentation period will be considered as part of the Contractor's good faith efforts.

The extended documentation period is intended to allow contractors that have made a good faith effort to secure DBE participation an opportunity to meet the stated contract goal. Contractors are expected to have utilized good faith efforts in compiling their initial DBE Utilization Plan, and the DBE participation indicated in the initial DBE Utilization Plan should reflect the participation the contractor could achieve through good faith efforts. In no case should a contractor remove, replace or reduce the commitment to a DBE listed in the initial Utilization Plan without prior written consent of ISTHA. Under no circumstances is the Bidder allowed to change the amount of the core bid submitted or any other documentation unrelated to this special provision. When ISTHA determines that a contractor, either through a pattern of conduct or with respect to a single bid, has failed to discharge its good faith efforts obligations in this intended fashion, ISTHA, in its discretion, may reject the bid outright without allowing the Bidder to take advantage of the extended documentation period.

## 6.6 Good Faith Efforts Procedures

If the bidder cannot obtain sufficient DBE commitments to meet the contract goal, the Bidder must document in the DBE Utilization Plan its good faith efforts to meet the goal, including any DBE participation secured as detailed in Form(s) 2025, using the Good Faith Efforts Contact Log and Checklist, DBE Form 2023. If the DBE contract goal was not achieved by a Bidder, the Bidder must submit its good faith efforts documentation, including the DBE Form 2023. Documentation submitted after bid opening, except as provided for in Section 6.5 above, will not be accepted or reviewed.

Demonstrating good faith efforts means that the Bidder must show that all necessary and reasonable steps were taken to achieve the contract goal. Necessary and reasonable steps are those that could reasonably be expected to obtain sufficient DBE participation. ISTHA will consider the quality, quantity and intensity of the kinds of efforts that the Bidder has made. Mere *pro forma* efforts are not good faith efforts; rather, the Bidder is expected to have taken those efforts that would be reasonably expected of a Bidder actively and aggressively trying to obtain DBE participation sufficient to meet the contract goal.

If ISTHA determines that the contractor has made a good faith effort to secure the work commitment of DBEs to meet the contract goal, ISTHA will award the contract provided that the Bidder is otherwise eligible for award and award is in the Tollway's best interest.

The following is a list of types of action that ISTHA will consider as part of the evaluation of the Bidder's good faith efforts to obtain DBE participation. These listed factors are not intended to be a mandatory checklist and are not intended to be exhaustive. Other factors or efforts brought to the attention of ISTHA may be relevant in appropriate cases, and will be considered by ISTHA.

- 6.6.1 Soliciting through all reasonable and available means (*e.g.*, attendance at DBE Networking Sessions sponsored by ISTHA, pre-bid meetings, advertising and/or written notices) the interest of all DBEs that have the capability to perform the work of the contract. A list of certified DBEs in the trades considered to determine the contract goal may be provided by the Tollway, but should not be considered exhaustive, and other firms may be available for solicitation by the Bidder. The Bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation, but in any event, no later than five (5) calendar days prior to the bid submission date. At least two methods of solicitation of DBEs must be used (*e.g.*, email and fax). The Bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow-up initial solicitations.
- 6.6.2 Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
- 6.6.3 Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

#### 6.6.4 Negotiating in good faith with interested DBEs.

6.6.4.1 Making a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, e mail address and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

6.6.4.2 A Bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a Bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

6.6.5 DBEs may not be rejected as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the contract goal.

6.6.6 Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the Tollway or the contractor.

6.6.7 Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

6.6.8 Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

In determining whether a Bidder made good faith efforts, ISTHA may take into account the performance of other Bidders in meeting the contract goal or of Bidders in meeting the goal on contracts of a similar nature. For example, when the apparent successful Bidder fails to meet the contract goal, but others meet it, ISTHA will review whether, with additional reasonable efforts, the apparent successful Bidder could have met the goal. If the apparent successful Bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other Bidders, ISTHA may view this, in conjunction with other factors, as evidence of the apparent successful Bidder having made good faith efforts.

6.6.9 A Bidder that rejected a DBE based on price must provide to ISTHA all quotes received for the scope of work proposed by the DBE from all firms, including non-DBEs.

6.6.10 The Bidder may request administrative reconsideration of a pre-final determination on its DBE Utilization Plan adverse to the Bidder by filing a request, within five working days after the Bidder receives written notice of the determination, which five-day period shall begin immediately after ISTHA provides the Bidder written notice of its pre-final determination, by delivering the request to the Illinois State Toll Highway Authority, Procurement Department, Chief of Contract Compliance, 2700 Ogden Avenue, Downers Grove, Illinois 60515-1703, contractcompliance@getipass.com, (630) 241-6800 ext. 4615. Submission via e-mail is acceptable. Deposit of the request in the United States mail on or before the fifth business day shall not be deemed delivery. The pre-final determination shall become final if a request is not received within the five-day period.

6.6.11 A request may provide additional written documentation and/or argument concerning the issue of whether an adequate good faith effort was made to meet the contract goal. In addition, the request shall be considered consent by the Bidder to extend the time for award. The request will be forwarded to the Illinois State Toll Highway Authority, Procurement Department, Chief of Contract Compliance. The Chief of Contract Compliance may extend an opportunity to the Bidder to meet in person in order to consider all issues of whether the Bidder made a good faith effort to meet the goal. Such meeting shall extend the time for a decision. After the review by the Chief of Contract Compliance, the Bidder will be sent a written decision within ten (10) working days after receipt of the request for reconsideration or the date of the meeting, explaining the basis for finding that the Bidder did or did not meet the goal or make adequate good faith efforts to do so. A final decision by the Chief of Contract Compliance that a good faith effort was made shall approve the DBE Utilization Plan submitted by the Bidder and shall clear the contract for award. A final decision that a good faith effort was not made shall render the bid non-responsive. The administrative reconsideration procedures described in this section are not intended to allow a Bidder to have an additional opportunity to submit a new DBE Utilization Plan or evidence of additional good faith efforts performed after bid submission.

## **7. CONTRACT COMPLIANCE**

### **7.1 Forms to be Submitted**

All work indicated for performance by an approved DBE shall be performed, managed and supervised by the DBE executing the DBE Form 2025 - Participation Statement.

To receive a notice to proceed, the contractor must submit for the Tollway's review signed subcontracts with all DBEs proposed to meet the goal within twenty (20) calendar days of award.

### **7.2 Changes to the DBE Utilization Plan**

The contractor may not make changes to its contractual DBE commitments, substitute a DBE subcontractor or make any other changes to the DBE Utilization Plan without the prior written approval of the Tollway's Contract Compliance Team. Unauthorized changes or substitutions, including performing the work designated for a subcontractor with the contractor's own forces, shall be a violation of this Special Provision and a breach of the contract.

If a Change Order or Extra Work order is issued by the Tollway or Contingency Work is authorized, the contractor, in ISTHA's discretion, will be required to amend its DBE Utilization Plan to reflect the recalculated DBE dollars and any percentage change in the goal. The DBE contract goal may change in the Tollway's discretion to reflect a Change Order or Extra Work Order or the authorization of Contingency Work.

The facts supporting the request for changes to the DBE Utilization Plan must not have been known or reasonably could not have been known by the parties prior to entering into the subcontract. The contractor must negotiate in good faith with the subcontractor to resolve the problem. If requested by either party, the Tollway shall facilitate such a meeting. Where there has been a mistake or disagreement about the scope of work, the DBE can be substituted only where agreement cannot be reached for a reasonable price or reasonable schedule for the correct scope of work. Requests should be sent to [contractcompliance@getipass.com](mailto:contractcompliance@getipass.com).

Substitutions of a DBE subcontractor shall be permitted only under the following circumstances:

- 7.2.1 Unavailability after receipt of reasonable notice to proceed;
- 7.2.2 Failure of performance;
- 7.2.3 Financial incapacity;
- 7.2.4 Refusal by the subcontractor to honor the bid or bid price or scope or schedule;

- 7.2.5 Material mistake of fact or law about the elements of the scope of work of a solicitation where a reasonable price cannot be agreed;
- 7.2.6 Failure of the subcontractor to meet insurance, licensing or bonding requirements;
- 7.2.7 The subcontractor's withdrawal of its bid or bid; or
- 7.2.8 Decertification of the subcontractor as a DBE, other than on the basis of its exceeding firm size or personal net worth limits.

If it becomes necessary to substitute a DBE or otherwise change the DBE Utilization Plan, the contractor must notify the Illinois State Toll Highway Authority, Contract Compliance Team in writing of the request to substitute a DBE or otherwise change the DBE Utilization Plan to [contractcompliance@getipass.com](mailto:contractcompliance@getipass.com). The request must state specific reasons for the substitution or change. A letter from the DBE to be substituted or affected by the change stating that it cannot perform on the contract or that it agrees with the change in its scope of work must be submitted with the request. Any refusal by the DBE to provide such a letter must be documented by the contractor. The Illinois State Toll Highway Authority, Contract Compliance Team will approve or deny a request for substitution or other change in the DBE Utilization Plan in writing within five (5) working days of receipt of the request.

Where the contractor has established the basis for the substitution to the Tollway's satisfaction, it must make good faith efforts to meet the contract goal by substituting a DBE subcontractor. Documentation of a replacement DBE, or of good faith efforts, must meet the requirements in Section 6.6 If the contract goal cannot be reached and good faith efforts have been made, the contractor may substitute with a non-DBE.

If the contractor plans to hire a subcontractor for any scope of work that was not previously disclosed in the DBE Utilization Plan, the contractor must obtain the approval of the Illinois State Toll Highway Authority, Contract Compliance Team to modify the DBE Utilization Plan and must make good faith efforts to ensure that DBEs have a fair opportunity to bid on the new scope of work.

A new subcontract, a new Form 2025 for the substituted DBE (if applicable) and an amended DBE Utilization Plan must be executed and submitted to the Illinois State Toll Highway Authority, Contract Compliance Team at [contractcompliance@getipass.com](mailto:contractcompliance@getipass.com) within five (5) working days of the contractor's receipt of the Tollway's approval for the substitution or other change.

### **7.3 The submission of the DBE Payment Report**

DBE Payment reporting, in such form or format as specified by the Tollway, must be submitted as specified in the Contract Compliance Payment Reporting Instructions posted on the Tollway's website.

The contractor shall maintain a record of payments to DBEs and all other subcontractors and suppliers for work performed. The records shall be made available to ISTHA for inspection and copying upon request. After the performance of the final item of work or delivery of material by a DBE and final payment to the DBE by the contractor, but not later than thirty (30) calendar days after payment has been made by ISTHA to the Contractor for such work or material, the contractor shall submit partial and final waivers of lien via B2GNow. Not complying with this requirement may delay processing of pay estimates and/or retainage.

All active Tollway vendors/contractors/consultants will be required to use B2GNow. Both diverse and non-diverse subcontractor payments must be reported and confirmed monthly in the system at <https://iltollway.diversitysoftware.com/>.

## **8. SANCTIONS**

The Tollway will periodically review the contractor's compliance with this Special Provision and the terms of its contract with the contractor, including the DBE Utilization Plan. Without limitation, the contractor's failure to comply with this Special Provision or its DBE Utilization Plan, failure to cooperate in providing information regarding its compliance with

this Special Provision or its DBE Utilization Plan, or provision of false or misleading information or statements concerning compliance, certification status of DBEs, good faith efforts or any other material fact or representation shall constitute a material breach of this contract and may result in damages to the Tollway. Such breach or damages entitle the Tollway to declare a default, terminate the contract, impose liquidated damages or exercise those remedies provided for in the contract or at law or in equity.

Sanctions may include, but are not limited to, monetary sanctions, including non-release of retainage; the monetary cost of audits resulting in findings of noncompliance; damages based on the damage to the Tollway from the contractor's lack of good faith efforts and failure to meet the other requirements of this Special Provision in an amount up to the monetary difference between the amount committed to by the contractor in its DBE Utilization Plan and the amount actually paid to DBEs; deeming the contractor non-responsible with respect to future business with the Tollway; and any other sanctions as are permitted by law.

In imposing sanctions, the Tollway will consider the *bona fide* efforts of the contractor to meet the DBE goal, its history of good faith efforts on other Tollway contracts, the size of the contract, the degree to which the contractor fell below the DBE goal, and other factors deemed relevant by the Tollway.

The contractor may appeal the decision to impose sanctions within five (5) working days of its receipt of the written decision by filing an appeal in hard copy or electronic format with the Illinois State Toll Highway Authority's Sanctions Committee. Actual delivery of the hard copy and electronic formats within the five (5) business days is required and mere posting by mail within that period is not sufficient. An appeal may provide additional documentation and/or arguments and request an oral presentation to the Tollway's Sanctions Committee. The Tollway's Sanctions Committee shall notify the contractor in writing of the final determination and the basis for the determination within ten (10) working days after receipt of the appeal or after the date of the oral presentation by the contractor, whichever is later. The contractor may appeal an adverse decision within five (5) working days of receipt of the final determination to the Executive Director by filing an appeal in hard copy and electronic format to the Illinois State Toll Highway Authority, Executive Director, 2700 Ogden Avenue, Downers Grove, Illinois 60515-1703, [contractcompliance@getipass.com](mailto:contractcompliance@getipass.com). The Executive Director or his/her designee, which designee shall not be employed within the Tollway's Contract Compliance Team, may solicit information from the contractor, the Diversity and Strategic Development Department, the Chief of Contract Compliance, the Law Department, Internal Audit, the Procurement Department, and anyone else in his/her discretion, and shall render a final decision on the contractor's appeal within thirty (30) calendar days.

## **9. INACCURATE OR FRAUDULENT REPORTING**

The contractor has a duty to accurately report information pursuant to this Special Provision. A contractor who fails to supply accurate information is subject to sanctions imposed by the Tollway. A contractor who intentionally supplies inaccurate information may be subject to civil and/or criminal sanctions.

## **10. OTHER REGULATIONS**

The adherence to the DBE goal does not abrogate other responsibilities of the contractor to comply with affirmative action requirements under federal or state law, municipal ordinance, prevailing government regulations or terms contained elsewhere in the contract.

## **11. DBE PAYMENT & JOINT CHECK REQUEST**

(a) Timely DBE Payment – Prime contractors should pay their DBE subcontractors for work completed as required within 30 days after the Tollway pays the prime contractor for the DBE subcontractors' work. Similarly, first tier DBE subcontractors should pay their lower tier subcontractors within 30 days after receiving payment from the prime contractor. DBE subcontractors should verify compliance with this timely payment policy in the Tollway's B2Gnow system when responding to monthly audit notices.

(b) Joint Check Request – Prime contractors and DBE subcontractors that require the use of joint checks to pay material suppliers must complete and submit the Tollway's DBE Joint Check Request Form. The prime contractor must ensure that

this form is completed and submitted to Tollway Contract Compliance within 30 days after the need for such a payment arises. The form must be completed in its entirety and signed by the DBE subcontractor, the material supplier and the prime contractor. No other joint check request form will be accepted. The Tollway will review and approve or deny the joint check request within 15 business days after receiving the completed Joint Check Request Form. It is the responsibility of the prime contractor and DBE subcontractor to ensure compliance with all DBE joint check policy requirements as outlined in the Tollway's Joint Check policy, including adherence to the commercially useful function, DBE independence and check payment verification (by providing a copy of the cancelled joint check to Contract Compliance) requirements.

## **12. GRANTING DBE CREDIT FOR CERTIFIED VENDORS NOT INCLUDED IN THE ORIGINAL APPROVED U-PLAN**

On Tollway construction and professional services contracts, DBE credit may be granted for work performed by a certified DBE that was not listed on the original approved utilization plan if the following requirements are met:

- (a) The DBE firm's certification was active, at all times, while it performed the scope of work, and the scope of work it performed is in the area(s) of specialty for which the DBE firm was certified.
- (b) The DBE firm performed a commercially useful function for the scope(s) of work for which DBE credit is being requested, and all the other requirements for counting DBE credit have been met.
- (c) While the prime contract is in effect, the prime contractor submits a revised u-plan including the DBE firm to Tollway Contract Compliance, as well as documentation verifying actual payment to the DBE firm – such as lien waivers, cancelled checks, or evidence of ACH transmittals.



ILLINOIS STATE TOLL HIGHWAY AUTHORITY  
DBE FORM 2026 - UTILIZATION PLAN

CONTRACT NUMBER \_\_\_\_\_  
CORE VALUE AMOUNT \_\_\_\_\_

PRIME CONTRACTOR: \_\_\_\_\_  
CONTACT NAME: \_\_\_\_\_  
CONTACT PHONE NUMBER: \_\_\_\_\_  
CONTACT E-MAIL: \_\_\_\_\_

Check one:

- Contractor will meet or exceed the DBE Contract Goal and will provide Disadvantaged Business Participation as presented below.  
PERCENTAGE OF ADVERTISED DBE GOAL : \_\_\_\_\_  
PERCENTAGE OF DBE COMMITMENT: \_\_\_\_\_
- Contractor requests a waiver of the DBE Contract Goal.  
The Bidder is requesting the contract Goal be accordingly modified or waived. Attached is all information required by the Special Provision in support of this request, including Good Faith Efforts - Form 2023.  
DOLLAR AMOUNT OF WAIVER REQUEST: \_\_\_\_\_  
PERCENTAGE OF WAIVER REQUEST: \_\_\_\_\_  
PERCENTAGE OF DBE COMMITMENT: \_\_\_\_\_

Instructions to Bidders:

- Bidders are required to fully read and comply with the Special Provision.
- Submit only one DBE Utilization Plan for each Project at time of Bid.
- This Utilization Plan, Form 2026 must:
  - be submitted with the bid or the bid will be deemed non-responsive
  - be an accurate representation of work and pricing agreed upon between the prime and the DBE firm prior to bid submission
- The Participation Statement(s) (DBE Form 2025), with original signatures, pay item description and pricing are to be submitted to Tollway Contract Compliance at [contractcompliance@getipass.com](mailto:contractcompliance@getipass.com) from the lowest apparent bidder on the fifth (5<sup>th</sup>) calendar day after bids are due or the bid will be deemed non-responsive.
- Each company listed on the Utilization Plan and subsequent Participation Statement must be listed in a certifying agency's database as stipulated in the Special Provision at the time of bid submission to be considered acceptable for DBE credit.
- In no case should a Contractor remove, replace or reduce the commitment to a DBE listed in the initial Utilization Plan on the Participation Statement without prior written consent of ISTHA. Under no circumstances is the Bidder allowed to change the amount of the core bid submitted or any other documentation unrelated to this special provision.
- If trucker, please describe if company will transport materials/equipment to or from a Public Works job site or if company will transport materials/equipment by the sellers or suppliers.

DBE UTILIZATION PLAN		
DBE Firm Name	Scope of Work Specific description of overall work to be performed.	DBE - Amount (\$) If supplier, enter 60% credit amount.
<b>TOTAL</b>		

For ebid: the submission of Form 2026 constitutes signature of this form.  
For hardcopy: signature required.  
Form 2026 - 02/2022

\_\_\_\_\_  
Signature Title Date



<b>CONTRACT #</b>		<b>DBE FIRM NAME:</b>		<b>CIRCLE ALL THAT APPLY</b>	<input type="checkbox"/> DBE	<input type="checkbox"/> MBE	<input type="checkbox"/> WBE	<input type="checkbox"/> SBA 8(A)
<b>CHECK ALL THAT APPLY:</b>	<input type="checkbox"/> PRIME	<input type="checkbox"/> JV PARTNER	<input type="checkbox"/> SUBCONTRACTOR	<input type="checkbox"/> TRUCKER	<input type="checkbox"/> SUPPLIER	<input type="checkbox"/> MANUFACTURER		
<b>IF TRUCKER, CHECK ALL THAT APPLY:</b>	<input type="checkbox"/> Transportation of materials or equipment to or from a Public Works job site			<input type="checkbox"/> Transportation of materials or equipment by the sellers or suppliers				
<b>SUBCONTRACTOR:</b>	<b>TIER 1 (SUB TO PRIME):</b>	<input type="checkbox"/> Y <input type="checkbox"/> N	<b>TIER 2 OR BELOW:</b>	<input type="checkbox"/> Y <input type="checkbox"/> N	<b>UNDER CONTRACT TO:</b>			
<b>Will the DBE subcontract a portion of its contract to one or more subcontractors?</b>	<input type="checkbox"/> Y <input type="checkbox"/> N				<b>Total amount of the DBE subcontract that will be subcontracted to non DBE companies</b>			
					<b>Total amount of the DBE subcontract that will be subcontracted to DBE companies</b>			

This form must be completed for EACH disadvantaged business participating in the DBE Utilization Plan. This form is due to the Tollway from the lowest apparent bidder on the fifth (5<sup>th</sup>) calendar day after bids are due or the bid will be deemed non-responsive to contractcompliance@getipass.com. If additional space is needed, complete an additional form(s) for the firm or attach a detailed information on the DBE firm company letterhead.

PAY ITEM NO.	DESCRIPTION: Specific description of overall work to be performed. Indicate whether furnish only, or both furnish and install	QUANTITY	UNIT PRICE	TOTAL CONTRACT AMOUNT (\$)	CHECK IF SUPPLIER	TOTAL DBE CREDIT AMOUNT (\$) <small>(reduce to 60% of contract amount if firm is a SUPPLIER)</small>
<b>TOTALS FOR THIS DBE FIRM:</b>						

- 1. PARTIAL PAY ITEMS:** For any of the above ITEMS that are partial pay items, specifically describe the work and subcontract dollar amount.
- 2. SUBCONTRACTING:** If any of the DBE scope of work will be subcontracted, provide the name of the contractor and attach a brief explanation, description and pay item number of the work that will be subcontracted. DBE credit will not be given for work subcontracted to Non-DBE contractors, except for as allowed in the Special Provision for Disadvantaged Business Enterprise Participation.
- 3. COMMITMENT:** The undersigned certify that the information herein is true and correct, and that the DBE listed below has agreed to perform a commercially-useful function in the work of the contract item(s) listed above and to execute a contract to that effect with the Prime Contractor. The undersigned further understand that NO CHANGES to the type or scope of work performed by the DBE may be made without PRIOR WRITTEN APPROVAL and that complete and accurate information regarding actual work performed by the DBE on this contract and the payment thereto must be provided to ISTHA's Contract Compliance. **The Prime Contractor will not assign any of the contract items listed above to a firm other than the DBE identified below without ISTHA's prior written approval. The Prime Contractor must request, in writing, approval by ISTHA's Contract Compliance of any proposed amendment to the type or scope of work to be performed by the DBE no later than three business days from the date the Prime Contractor becomes aware of the circumstances supporting the request. Failure to receive written approval prior to a change in type or scope is a violation of the Special Provision for DBE Participation and can subject the contractor to contract sanctions.**

Signature for Prime Contractor \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_  
 Contact: \_\_\_\_\_  
 Firm Name: \_\_\_\_\_  
 E-mail: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_

Signature for DBE Contractor \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_  
 Contact: \_\_\_\_\_  
 Firm Name: \_\_\_\_\_  
 E-mail: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_



# DBE FORM 2023

## Demonstration of Good Faith Efforts to Achieve DBE Subcontracting Goal

If the DBE contract goal was not achieved, the Good Faith Efforts checklist and contacts log must be submitted with the bid. Failure to do so may render the Bidder's solicitation response non-responsive and cause it to be rejected, or render the Bidder ineligible for contract award, at ISTHA's sole discretion. **The Bidder must provide all evidence relied upon in support of its Good Faith Efforts with its bid.**

### Good Faith Efforts Checklist

Insert on each line below the initials of the authorized Bidder representative who is certifying the Bidder has completed the activities described below and attach proof of such efforts for review. If any of the items were not completed, attach a detailed written explanation. If any other efforts were made to obtain DBE participation in addition to the items listed below, attach a detailed written explanation.

\_\_\_\_\_ Identified portions of the contract work capable of performance by available DBEs, including, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation even when the Bidder could perform those scopes with its own forces.

\_\_\_\_\_ Solicited through reasonable and available means (e.g., pre-bid meetings, networking session, written notices, advertisements) DBEs to perform the types of work that could be subcontracted on this project, within sufficient time to allow them to respond.

- ILUCP DBE Directory:  
<http://www.idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/il-ucp-directory/index>
- City of Chicago's M/WBE Directory:  
<https://chicago.mwdbe.com/FrontEnd/VendorSearchPublic.asp?TN=Chicago>
- County of Cook, IL's M/WBE Directory:  
<http://www.cookcountyil.gov/mbewbevbe-directory/>
- Small Business Administration's SBA 8(a) Directory:  
[http://dsbs.sba.gov/dsbs/search/dsp\\_dsbs.cfm](http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm)

\_\_\_\_\_ Provided timely and adequate information about the plans, specifications and requirements of the contract. Followed up initial solicitations to answer questions and encourage DBEs to submit bids.

\_\_\_\_\_ Negotiated in good faith with interested DBEs that submitted bids and thoroughly investigated their capabilities.

\_\_\_\_\_ Made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as may be required for performance of the contract (if applicable).

\_\_\_\_\_ Utilized resources available to identify available DBEs, including but not limited to DBE assistance groups; local, state and federal minority or women business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBEs.

**Affidavit of Truthfulness: Signature below affirms accuracy of Good Faith Efforts and Tollway to provide above information**

Print Name: \_\_\_\_\_ Phone contact: \_\_\_\_\_

Position: \_\_\_\_\_ E-mail address: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



# DBE FORM 2023

## Good Faith Efforts Contacts Log for Soliciting - DBE Participation: Form 2023 continued

Project name: \_\_\_\_\_

Project number: \_\_\_\_\_

Bidder name: \_\_\_\_\_

Contact person: \_\_\_\_\_

Use this form to document all contacts and responses (telephone, e-mail, fax, etc.) regarding the solicitation of DBEs. Duplicate as needed. **The Bidder must provide all evidence relied upon in support of its Good Faith Efforts with its bid.**

Name of DBE	Date and method of contact	Scope of work solicited	Reason agreement was not reached

**Affidavit of Truthfulness:** Signature below affirms accuracy of Good Faith Efforts and Tollway to provide above information

**Print Name:** \_\_\_\_\_

**Phone contact:** \_\_\_\_\_

**Position:** \_\_\_\_\_

**E-mail address:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Illinois State Toll Highway Authority**  
**SPECIAL PROVISIONS FOR**  
**EQUAL EMPLOYMENT OPPORTUNITY PROGRAM**

**1. OBJECTIVE OF THE EQUAL EMPLOYMENT OPPORTUNITY PROGRAM (EEO):**

To promote equality of employment opportunity for all individuals including veteran, minority, and female tradespersons on Illinois State Toll Highway Authority (ISTHA or “Tollway”) capital construction projects. In its efforts to achieve this equality, it is the desire of ISTHA to follow the guidelines as instituted by the United States Department of Labor, Office of Federal Contract Compliance Programs (“OFCCP”) as established through Executive Order 11246 and by Title VII of the Civil Rights Act of 1964, the Illinois Department of Human Rights (IDHR) as established through the Illinois Human Rights Act (Illinois Compiled Statutes, 775 ILCS 5/1 -101, et sequitur), and State of Illinois Executive Order 15-2, Executive Order To Ensure Equal Opportunity Is Provided To All Illinois Persons And Businesses.

**2. CONTRACTOR ASSURANCE:**

The Contractor will assure that each of its employees and its subcontractors’ employees associated with the contract shall not discriminate on the basis of any protected category identified by law in the performance of this contract in compliance with Title VII of the Civil Rights Act of 1964 found in 42 U.S.C § 2000e, *et seq* and Illinois state laws. Discrimination is the unfair treatment or denial of normal privileges to persons because of any characteristic protected by law. The Tollway encourages the prompt reporting of incidents of suspected discrimination, harassment or retaliation, regardless of the offender’s identity or position. In the event of the contractor's non-compliance with this Equal Employment Opportunity Special Provision, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other remedies invoked as provided by statute or regulation.

**3. EEO GOAL TO BE ACHIEVED BY THE CONTRACTOR:**

The EEO goals set by the U.S. Dept. of Labor - Office of Federal Contract Compliance Programs (“OFCCP”) for construction trade workers in the Chicago area, which is provided through Executive Order 11246, apply to this contract. The EEO goals are measured through the following percentages of construction aggregated work hours in each of the categories;

Women: at least 6.9 percent for all contracts.

Minorities: set on a contract basis, dependent upon the county where the work will be performed. The Minority Goal for this contract is **19.6** %.

ILLINOIS COUNTY	CURRENT FEDERAL GOAL % FOR MINORITIES	ILLINOIS COUNTY	CURRENT FEDERAL GOAL % FOR MINORITIES
BOONE	6.3	LAKE	19.6
BUREAU	18.4	LASALLE	18.4
COOK	19.6	LEE	4.6
DEKALB	18.4	MCHENRY	19.6
DUPAGE	19.6	OGLE	4.6
GRUNDY	18.4	ROCK ISLAND	4.6
HENRY	4.6	STEPHENSON	4.6
IROQUOIS	18.4	WHITESIDE	3.4
KANE	19.6	WILL	19.6
KENDALL	18.4	WINNEBAGO	6.3

#### 4. DEFINITIONS OF ETHNIC CLASSIFICATIONS:

##### AMERICAN INDIAN OR ALASKA NATIVE:

Persons having origins in any of the original peoples of North and South American (including Central America), and who maintain tribal affiliation or community attachment.

##### ASIAN:

Persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including for example Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

##### BLACK OR AFRICAN AMERICAN:

Persons having origins in any of the Black racial groups of Africa.

##### HISPANIC:

Persons of Mexican, Puerto Rican, Cuban, Central American, South American, or other Spanish culture or origin, regardless of race.

#### 5. CONTRACT PERFORMANCE

During the performance of this contract, the contractor agrees as follows, as required by the Illinois Department of Human Rights (IDHR) at 44 Ill. Admin. Code 750 (Appendix A):

5.1 That, EEO Form 1256, Workforce Projection is required from the lowest apparent bidder on the fifth(5<sup>th</sup>) calendar day after bids are due or the bid will be deemed non-responsive.

The submission of EEO Form 1256 should be sent via email to [contractcompliance@getipass.com](mailto:contractcompliance@getipass.com).

5.2 That it will not discriminate against any protected category identified by law; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.

5.3 That, if it hires additional employees in order to perform this contract or any portion thereof, it will determine the availability (in accordance with IDHR's rules) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.

5.4 That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination of any protected category identified by law.

5.5 That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the contractor's obligations under the Illinois Human Rights Act and the IDHR's Rules. If any such labor organization or representative fails or refuses to cooperate with the contractor in its efforts to comply with such Act and Rules, the contractor will promptly so notify the IDHR and the contracting agency and will recruit employees from other sources such as the construction works program when necessary to fulfill its obligations thereunder.

5.6 That it will submit reports as required by the IDHR's Rules, furnish all relevant information as may from time to time be requested by the IDHR or the Tollway, and in all respects comply with the Illinois Human Rights Act and the IDHR's Rules.

5.7 That it will abide by the audit clause of the contract.

5.8 That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the IDHR in the event any subcontractor fails or refuses to comply therewith. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

5.9 That it will designate and make known to the Tollway an EEO Officer.

## **6. CALCULATING EEO PERFORMANCE, CREDIT TOWARDS THE USDOL OFCCP GOALS AND VETERAN PARTICIPATION FOR ILLINOIS EXECUTIVE ORDER 15-12:**

Actual amounts of minority, female, and veteran work will be measured for the total hours of construction workers employed on the contract within each of the categories of journeyworker, apprentice and laborer by the Contractor and all of the worksite subcontractors. Minority female trade worker hours are counted in applicable ethnic category, in the veteran category if applicable and also in the female category.

In the certified payroll reports, the following ethnic categories should be used to indicate minority personnel for purposes of reporting compliance with the weekly certified payroll report: American Indian/Alaska Native, Asian, Black/African American, Hispanic and Native Hawaiian/Other Pacific Islander.

Included in the certified payrolls, as "Apprentices" are only bona fide apprentices currently in a training program certified by the U.S. Department of Labor - Bureau of Apprenticeship and Training, and hours credited towards the EEO Program are only those hours the apprentice was employed at the construction site. "Journeyworkers" are the construction site journeyworkers from the major trades. Other "Helpers", watchmen, custodial workers, clerical workers, and salaried superintendents are not creditable in the formula. Hourly wage "Forepersons" and "Forepersons" otherwise known as working forepersons, will be counted as journeyworkers for purposes of the EEO Program reporting.

In addition to the timely submission of certified payroll required by the Prevailing Wage Act (820 ILCS 130) as required by the contract specifications, the Contractor must have submitted all certified payrolls for the Contractor and all subcontractors before the Contractor submits its request for the final release of retention and the final waiver of lien. No adjustments to certified payrolls will be accepted after the transmission of the final waiver of lien.

The contractor and each subcontractor shall permit its employees to be interviewed on the job, during working hours, by compliance personnel of the Tollway, IDHR or the Department of Labor regarding compliance with the terms of this Special Provision.

## **7. REQUIRED EEO/CERTIFIED PAYROLL REPORTING INTO THE LCPTRACKER AND CERTIFIED PAYROLL SYSTEMS**

All contractors and subcontractors must enter or submit weekly payroll reports electronically to the Tollway via the Tollway's LCPTracker system. The required EEO workhours for women and minorities will be calculated based on payroll reports entered into the LCPtracker system by contractors and their subcontractors. The LCPtracker system can be accessed at <https://prod-cdn.lcptracker.net/login/login>.

The party preparing the report must sign and submit/certify the report electronically. Weekly certified payroll reporting in LCPtracker will replace the EEO workhours reporting in Catapult. Failure to submit weekly payrolls through the LCPtracker system will cause a delay in the payment of the contractor's pay estimates. It is the responsibility of the contractors and subcontractors to make sure that the right ethnicity and job classification are entered/selected for each of their employees when reporting payrolls in LCPtracker.

The contractor is responsible for maintaining a hard copy of the contractor's and subcontractors' certified payrolls, including all properly executed certifications, organized by contract for every construction worksite. The contractor and

subcontractor are responsible for submitting certified payrolls to the Illinois Department of labor (IDOL) through the IDOL's certified payroll portal, and in the Tollway's LCPtracker system. Note: Questions concerning the certified payroll submission in the IDOL portal should be directed to IDOL. Failure to report fully all required workforce information will cause a delay in processing the contractor's pay estimates. Disclosure of this information is required. Patterns of delinquent reporting may be cause to terminate this contract or such other remedy as the Tollway deems appropriate.

#### **8. SUBCONTRACTOR OBLIGATIONS:**

The Contractor is required to clearly identify in their subcontract agreements the specific performance obligations that each subcontractor has toward assisting the Contractor in meeting the EEO goals.

In the same manner as with other provisions of this contract, the Contractor will be responsible for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the Tollway and the IDHR in the event any subcontractor fails or refuses to comply therewith. In addition, the Contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

#### **9. GOOD FAITH EFFORT PROCEDURES:**

If the Tollway determines that the Contractor and/or its subcontractors are not in compliance with the EEO goals, the Tollway will notify the Contractor of said non-compliance. The Contractor must submit a Corrective Action Plan within fifteen (15) business days of the date of its receipt of the notice of non-compliance. The Corrective Action Plan must contain evidence of good faith efforts the Contractor has made in an effort to meet the EEO goals and outline the additional good faith efforts the Contractor will be making, including but not limited to timelines, through the remaining life of the contract.

#### **10. CORRECTIVE ACTION PLAN:**

The Corrective Action Plan must show that the Contractor made good faith efforts, taking all necessary and reasonable steps to achieve the stated EEO goals. Necessary and reasonable steps are those that could reasonably be expected to employ and retain a sufficient number of minority and female trade workers to meet or exceed the federally set EEO goals for the Illinois county in which work is performed.

Examples of Good Faith Efforts include, but are not limited to, the following:

- Establish and maintain a current list of minority, veteran and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its labor organizations have employment opportunities available, and maintain a record of the organizations' responses.
- Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a labor organization, a recruitment source or community organization.
- Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor.
- Disseminate the Contractor's EEO policy by providing notice of the policy to labor organizations and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

- Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs.
- Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

The Tollway will consider the quality, quantity and intensity of the kinds of efforts that the Contractor and its subcontractors have made throughout the life of the contract. Mere pro forma efforts are not good faith efforts; rather, the Contractor and its subcontractors are expected to have taken those efforts that would be reasonably expected of a Contractor and its subcontractors who are actively trying to employ and retain minority and female trade workers sufficient to meet the contract EEO goals.

**11. AMENDED CORRECTIVE ACTION PLAN:**

If the Tollway determines that the Contractor has not made a good faith effort to meet the EEO goals, the Tollway will notify the Contractor of that preliminary determination by contacting the responsible company official designated in the Corrective Action Plan. The preliminary determination will include a statement of reasons why a finding of insufficient good faith efforts has been made and may include additional good faith efforts that the Contractor could take to remedy the deficiency. The notification will designate a fifteen (15) business day period during which the Contractor may make additional efforts to demonstrate a good faith effort to meet the EEO goals. The Contractor is not limited by the Tollway's suggestions per Sections 9 and 10 of additional good faith efforts, but may take other actions in order to demonstrate good faith efforts to employ and retain additional minority and female trade workers on the project. The Contractor shall submit an amended Corrective Action Plan if additional employment commitments to meet the EEO contract goal are secured and/or to document its additional good faith efforts. If additional hiring commitments sufficient to meet the EEO contract goal are not secured, the Contractor shall report the final good faith efforts made in the time allotted. All additional efforts taken by the Contractor will be considered as part of the Contractor's good faith efforts. If the Contractor is not able to meet the EEO goal after making additional efforts, the Tollway will make a pre-final determination as to the good faith efforts of the Contractor and will notify the designated responsible Contractor official of the reasons for an adverse determination, if applicable.

**12. DETERMINATION OF NON-COMPLIANCE:**

If the Tollway determines that the Contractor has failed to make a good faith effort to meet the EEO goals on the contract, the Tollway will document its findings in a "Letter of Non-Compliance" that will become part of the procurement file maintained on the Contractor by the Tollway. The Letter may include a proposed sanction under Section 14 if the Contractor fails to take corrective action in a timely fashion. Upon a finding that a Contractor has failed to make good faith efforts to achieve the applicable EEO goals, the Tollway may exercise any appropriate sanction available to it under Section 14, including the revocation of the contract award to the Contractor and any other remedy available to the Tollway under its contract with the Contractor or by law.

**13. ADMINISTRATIVE RECONSIDERATION:**

The contractor may request administrative reconsideration of a Letter of Non-Compliance within the fifteen (15) business days after its receipt of the Letter by actual delivery of a reconsideration request to the Illinois State Toll Highway Authority, Contract Compliance Team, 2700 Ogden Avenue, Downers Grove, Illinois 60515-1703 or via email to E-mail address: contractcompliance@getipass.com. Deposit of the request in the United States mail on or before the fifth

business day shall not be deemed delivery. The Letter of Non-Compliance shall become final if the contractor fails to submit a timely request for administrative reconsideration. A request may provide additional written documentation and/or argument concerning the issue of whether an adequate good faith effort was made to meet the contract goal.

The Tollway Chief of Contract Compliance or his/her designee will send the Contractor a written decision within fifteen (15) business days after receipt of the request for reconsideration, unless extended by the Tollway if a hearing is requested, explaining the basis for finding that the contractor did or did not meet the EEO goals or demonstrate good faith efforts towards meeting those goals. A decision by the Chief of Contract Compliance that a good faith effort was made shall be deemed approval of the Corrective Action Plan submitted by the contractor. A final decision that a good faith effort was not made shall render the contractor in breach as non-compliant with its contract with the Tollway and may subject the contractor to sanctions under Section 14.

#### **14. SANCTIONS:**

The Contractor's failure to achieve the EEO goals or to demonstrate good faith efforts towards meeting those goals may subject the Contractor to administrative sanctions. These sanctions include, but are not limited to, monetary sanctions, including non-release of retainage, liquidated damages, deeming the Contractor as non-responsible with respect to future business with the Tollway, and other reasonable sanctions as are permitted by law or equity. A Contractor's repeated failure to meet its EEO obligations on Tollway contracts can be grounds for the Tollway to not award future contracts to the Contractor.

In imposing sanctions, the Tollway will consider the bona fide efforts of the Contractor to meet the EEO goals, its history of good faith efforts on other Tollway contracts, the size of the contract, the degree to which the Contractor fell below the EEO goals, and other factors deemed relevant by the Tollway.

#### **15. RECORDS RETENTION AND AUDIT**

Refer to the audit clause of the contract.

#### **16. INACCURATE OR FRAUDULENT REPORTING:**

Contractors and subcontractors have a duty to accurately report information pursuant to this Special Provision. A Contractor or subcontractor who fails to supply accurate information may be subject to sanctions imposed by the Tollway under Section 14. A Contractor or subcontractor who intentionally supplies inaccurate information may be subject to civil and/or criminal sanctions.

#### **17. OTHER REGULATIONS:**

The achievement of the EEO goals does not abrogate other responsibilities of the Contractor to comply with equal employment opportunity requirements under federal or state law, municipal ordinance, prevailing government regulations or terms contained elsewhere in the Contract.



**ILLINOIS TOLLWAY**  
 2700 Ogden Avenue, Downers Grove, IL 60515  
 (630) 241-6800 • illinoistollway.com

**FORM 1256-WORKFORCE PROJECTION**

The undersigned bidder has analyzed minority group and female populations, unemployment rates and availability of workers for the location in which this contract work is to be performed, and for the locations from which the bidder recruits employees, and hereby submits the following workforce projection including a projection for minority and female employee utilization in all job categories in the workforce to be allocated to this contract. The Form 1256 is due from the lowest apparent bidder on the 5<sup>th</sup> calendar day after bids are due or the bid will be deemed non-responsive. The completed form should be emailed to: contractcompliance@getipass.com.

1	2	3	4	5	6	7	8	9	10	11		12		13
Job Titles	Number of hours required to complete job for each title	Number of positions in the job title to complete job	Number currently employed in the job title	Number from column 4, that are minorities?	Number from column 4, that are Women?	Number of positions needed to be hired? (column 3-4) Automatic Calculation	How many apprentices will be hired for each job title?	How many journeymen will be hired for each job title?	How many trainees will be hired for each job title?	Minorities to be hired in each title?	Number of minority hours committed to meet the required goal	Females to be hired in this title?	Number of female hours committed to meet the required goal	Anticipated hire dates for titles
TOTALS														

The undersigned agrees to commit to meeting the goal of minority and female participation on this contract. In the event that the undersigned is unable to meet the hires with its own efforts, the company will further commit to reach out to Tollway Contract Compliance for assistance with hires in each category.

\_\_\_\_\_  
 Company Name  
 (Rev 7/2020)

\_\_\_\_\_  
 Signature of Owner/Operator or designee  
 EEO - 7

Contract No RR-26-9315

### EEO 1256 FORM INSTRUCTION

The 1256 Form must be submitted by the lowest apparent bidder on the 5<sup>th</sup> calendar day after bids are due or the bid will be deemed non-responsive.

#	Item	Instructions
1	Job titles	List the job classifications/titles that are needed to complete the scope of work-including the entire workforce for the prime and all subcontractors. This includes all diverse and non-diverse employee job classifications/titles.
2	Number of Hours required to complete job for each title?	List how many labor hours are needed to complete the scope of work for each classification/title.
3	Number of positions in the job title to complete the job?	List how many employees are needed to complete the scope of work for each job title.
4	Number currently employed in the job title?	List how many employees are currently employed at each job title/position.
5	Number from column 4, that are minorities?	List the number of minority hires from #4 your firm currently has for each position/job title.
6	Number from column 4, that are Female?	List the number of female hires from #4 your firm currently has for each position/job title
7	Number of positions needed to be hired? (column 3-4) Automatic Calculation?	Calculation of the difference between #3 and #4 above; or how many of the positions specified in #3 are currently open/vacant that the contractor will commit to.
8	How many apprentices will be hired for each job title?	List the number of apprentice hires your firm will commit to for each position. Note - apprentices are only bona fide apprentices currently in a training program certified by the U.S. Department of Labor, and hours credited towards the EEO Program are only those hours the apprentice was employed at the construction site.
9	How many Journeymen will be hired?	List the number of journeymen hires your firm will commit to for each position. Note - certified by the U.S. Department of Labor, and hours credited towards the EEO Program are only those hours the journeymen spends employed at the construction site.
10	How many trainees will be hired?	List the number of trainee hires your firm will commit to for each position. Hours credited towards the EEO Program are only those hours the journeymen spends employed at the construction site.
11	How many minority hires and hours for each position/hire?	Number of minority workers that will be hired for each position, and the number of minority hours that your firm will commit to, to meet the minority goal. The number of hires should not be more than column #7 for each position/title.
12	How many female hires and hours for each position/hire?	Number of female workers that will be hired for each position, and the number of female hours that will be committed to meet the female goal. The number of hires should not be more than column #7 for each position/title.
13	Anticipated hire dates for each position/titles?	List the anticipated hiring date for the minorities, women, apprentices and journeymen hires for each position/title committed to.

## STATE OF ILLINOIS

**SPECIAL PROVISION - VETERAN SMALL BUSINESS  
PARTICIPATION AND UTILIZATION PLAN - CONSTRUCTION  
For State Agency/State University Use Only**

It is the goal of the State to promote and encourage the continued economic development of small businesses owned and controlled by qualified veterans and that qualified service-disabled veteran-owned small businesses (SDVOSB) and veteran-owned small businesses (VOSB) participate in the State's procurement process as both prime contractors and subcontractors. 30 ILCS 500/45-57.

**Contract Goal to be Achieved by Vendor:** This solicitation includes a specific **Veteran Small Business** participation goal of 3.0 % based on the availability of CEI certified veteran-owned and service-disabled veteran-owned small business (VOSB/SDVOSB) vendors to perform or provide the anticipated services and/or supplies required by this solicitation.

**The Veteran Small Business participation goal is applicable to all bids or offers.** In addition to the other award criteria established for this solicitation, the Agency will award this contract to a Vendor that meets the goal or makes good faith efforts to meet the goal. This goal is also applicable to change orders and allowances within the scope of work provided by the certified VOSB/SDVOSB vendor. If Vendor is a CEI certified VOSB/SDVOSB vendor, the entire goal is met and no subcontracting with a CEI certified VOSB/SDVOSB vendor is required; however, **Vendor must submit a Utilization Plan indicating that the goal will be met by self-performance.**

**The VOSB goal is separate and distinct from the DBE goal. A single firm may not be utilized to achieve credit toward both DBE and VOSB goals on a single project except when the firm is bidding the contract as the Prime Vendor, is certified as both a DBE and VOSB and will commit to meeting the two goals by self-performing the same or greater percentage of work under the contract as the DBE and VOSB goals added together.**

Following are guidelines for Vendor's completion of the Utilization Plan. **Please read the guidelines carefully.**

- Utilization Plan (Form 2026) is due with bid
- Good Faith Efforts (Form 2023) is due with bid, if applicable
- Participation Statement (Form 2025) for each Veteran firm listed on the Form 2026 should be submitted from the lowest apparent bidder on the fifth (5<sup>th</sup>) calendar day after bids are due or the bid will be deemed non-responsive. In no case should a contractor remove, replace, or reduce the commitment to a Veteran firm listed in the initial Utilization Plan Form 2026 without prior written consent of ISTHA. Under no circumstances is the Bidder allowed to change the amount of the core bid submitted or any other documentation unrelated to this special provision.

Vendor should include any additional information that will add clarity to Vendor's proposed utilization of certified Veteran Small Business vendors to meet the targeted goal. The Utilization Plan must demonstrate that Vendor has either: (1) met the entire contract goal; (2) made good faith efforts towards meeting the entire goal; or (3) made good faith efforts towards meeting a portion of the goal. Any submission of good faith efforts by Vendor shall be considered as a request for a full or partial waiver.

**At the time of bid or offer, Vendor, or Vendor's proposed Subcontractor, must be certified with CEI as a VOSB or SDVOSB.** Failure to complete a Utilization Plan or provide Good Faith Effort documentation shall render the bid or offer non-responsive or not responsible.

1. If applicable where there is more than one prime vendor, the Utilization Plan should include an executed Joint Venture Agreement specifying the terms and conditions of the relationship between the parties and their relationship and responsibilities to the contract. The Joint Venture Agreement must clearly evidence that the certified VOSB/SDVOSB vendor will be responsible for a clearly defined portion of the work and that its responsibilities, risks, profits and contributions of capital, and personnel are proportionate to its ownership percentage. It must include specific details related to the parties' contributions of capital, personnel, and equipment and share of the costs of insurance and other items; the scopes to be performed by the certified

VOSB/SDVOSB vendor under its supervision; and the commitment of management, supervisory personnel, and operative personnel employed by the certified VOSB/SDVOSB vendor to be dedicated to the performance of the contract. Established Joint Venture Agreements will only be credited toward Veteran Small Business goal achievements for specific work performed by the certified VOSB/SDVOSB vendor. **Each party to the Joint Venture Agreement must execute the bid or offer prior to submission of the bid or offer to the Agency.**

2. An agreement between a vendor and a certified VOSB/SDVOSB vendor in which a certified VOSB/SDVOSB vendor promises not to provide subcontracting or pricing quotations to other vendors is prohibited. The Agency may request additional information to demonstrate compliance. Vendor agrees to cooperate promptly with the Agency in submitting to interviews, allowing entry to places of business, providing further documentation, and to soliciting the cooperation of a proposed certified VOSB/SDVOSB vendor. Failure to cooperate by Vendor and certified VOSB/SDVOSB vendor may render the Bidder or offeror non-responsive or not responsible. **The contract will not be finally awarded to Vendor unless Vendor's Utilization Plan is approved.**
3. **Veteran Small Business Certified Vendor Locator References:** Vendors may consult CEI's Public Online Directory at <https://supplierdiversitymanagementportal.illinois.gov/VendorDirectory.aspx>, as well as the directories of other certifying agencies, but firms **must be certified with CEI as VOSB/SDVOSB vendors at the time of bid/offer.**
4. **Vendor Assurance:** Vendor shall not discriminate on the basis of race, color, national origin, sexual orientation or sex in the performance of this contract. Failure by Vendor 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 Agency deems appropriate. This assurance must be included in each subcontract that Vendor signs with a subcontractor or supplier.
5. **Calculating Certified VOSB/SDVOSB Vendor Participation:** The Utilization Plan documents work anticipated to be performed, or goods/equipment provided by all certified VOSB/SDVOSB vendors and paid for upon satisfactory completion/delivery. Only the value of payments made for the work actually performed by certified VOSB/SDVOSB vendors is counted toward the contract goal. Applicable guidelines for counting payments attributable to contract goals are summarized below:
  - 5.1 The participation of VOSBs will be calculated on the amount of the Core Work, not Contingency Work identified in the bid documents. The contractor's VOSB commitment will be assessed for any and all Extra Work Orders (EWO) and Change Orders (CO) at the time such orders are issued.
    - 5.1.1 *Contingency Work* is the anticipated work within the scope of the project which is included in the project to cover the work of such an uncertain nature that the location or quantity could not be identified prior to awarding the contract.
    - 5.1.2 *Core Work* is the anticipated work within the scope of the project which is included in the project to cover the work of such a nature that the location and estimated quantity could be identified prior to awarding the contract.
  - 5.2. The value of the work actually performed or goods/equipment provided by the certified VOSB/SDVOSB vendor shall be counted towards the goal. The entire amount of that portion of the contract that is performed by the certified VOSB/SDVOSB vendor, including supplies purchased or equipment leased by the certified VOSB/SDVOSB vendor shall be counted, except supplies purchased and equipment rented from the Prime Vendor submitting this bid or offer.
  - 5.3. A vendor shall count the portion of the total dollar value of the Veteran Small Business contract equal to the distinct, clearly defined portion of the work of the contract that the certified VOSB/SDVOSB vendor performs toward the goal. A vendor shall also count the dollar value of work subcontracted to other certified VOSB/SDVOSB vendor. Work performed by the non-certified VOSB/SDVOSB party shall not be counted toward the goal. **Work that a certified VOSB/SDVOSB vendor subcontracts to a non-certified VOSB/SDVOSB vendor will not count towards the goal.**
  - 5.4. A Vendor shall count toward the goal 100% of its expenditures for materials and supplies required under the

- contract and obtained from a certified VOSB/SDVOSB manufacturer; 60% of the cost of the materials or supplies required under the contract and obtained from a certified VOSB/SDVOSB regular dealer or supplier shall count toward the VOSB/SDVOSB goal. A Vendor shall count toward the goal the following expenditures to certified VOSB/SDVOSB vendors that are not manufacturers, regular dealers, or suppliers:
- 5.4.1. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the contract, provided that the fee or commission is determined by the Agency to be reasonable and not excessive as compared with fees customarily allowed for similar services.
  - 5.4.2. The fees charged for delivery of materials and supplies required by the contract (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer or a supplier of the materials and supplies being procured, provided that the fee is determined by the Agency to be reasonable and not excessive as compared with fees customarily allowed for similar services. The certified VOSB/SDVOSB vendor's trucking firm must be responsible for the management and supervision of the entire trucking operation for which it is responsible on the contract, and must itself own and operate at least one fully licensed, insured and operational truck used on the contract.
  - 5.4.3. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the contract, provided that the fee or commission is determined by the Agency to be reasonable and not excessive as compared with fees customarily allowed for similar services.
- 5.5.** Certified VOSB/SDVOSB vendors who are performing on contract as second tier subcontractors may be counted in meeting the established Veteran Small Business goal for this contract as long as the Prime Vendor can provide documentation indicating the utilization of these vendors.
- 5.6.** A Vendor shall count towards the goal only expenditures to firms that perform a commercially useful function in the work of the contract.
- 5.6.1. A firm is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved. The certified VOSB/SDVOSB vendor must also be responsible, with respect to materials or supplies used on the contract, for negotiating price, determining quality and quantity, ordering the materials or supplies, and installing the materials (where applicable) and paying for the material or supplies. To determine whether a firm is performing a commercially useful function, the Agency shall evaluate the amount of work subcontracted, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing, and the credit claimed for its performance of the work, industry practices, and other relevant factors.
  - 5.6.2. A certified VOSB/SDVOSB vendor does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction or contract through which funds are passed through in order to obtain certified VOSB/SDVOSB vendor participation. In determining whether a certified VOSB/SDVOSB vendor is such an extra participant, the Agency shall examine similar transactions, particularly those in which certified VOSB/SDVOSB vendors do not participate, and industry practices.
- 5.7.** A Vendor shall not count towards the goal expenditures that are not direct, necessary and related to the work of the contract. Only the amount of services or goods that are directly attributable to the performance of the contract shall be counted. Ineligible expenditures include general office overhead or other Vendor support activities.

- 6. Good Faith Effort Procedures:** Vendor must submit a Utilization Plan (VOSB Form 2026) and Participation Statement(s)(VOSB Form 2025) that meet or exceed the published goal. If Vendor cannot meet the stated goal,

Vendor must document and explain via VOSB Form 2023 the good faith efforts it undertook to meet the goal. Utilization Plan, Participation Statement(s) and Good Faith Effort are due at the time of bid or offer submission. **Vendors will not be permitted to correct goal deficiencies after bid or offer due dates.** CEI or the State Agency, as its delegate, will consider the quality, quantity, and intensity of Vendor's efforts.

The Utilization Plan contains a checklist of actions that CEI or the State Agency, as its delegate, will consider as evidence of Vendor's good faith efforts to meet the goal. Other factors or efforts brought to the attention of CEI or the State Agency, as its delegate, may be relevant in appropriate cases.

- 6.1.** In evaluating Vendor's good faith efforts, CEI or the State Agency, as its delegate, may consider whether the ability of other Bidders or offerors to meet the contract goal suggests that good faith efforts could have resulted in Vendor meeting the goal.
- 6.2.** If CEI or the State Agency, as its delegate, determines that Vendor has made good faith efforts to meet the goal, the Agency may award the contract provided that Vendor is otherwise eligible for award.
- 6.3.** If CEI or the State Agency, as its delegate, determines that good faith efforts have not been met, the bid or offer may be determined to be non-responsible by the Chief Procurement Office.

- 7. Contract Compliance:** Compliance with this section is an essential part of the contract. The following administrative procedures and remedies govern Vendor's compliance with the contractual obligations established by the Utilization Plan. After approval of the Plan and award of the contract, the Utilization Plan becomes part of the contract. If Vendor did not succeed in obtaining certified VOSB/SDVOSB vendor participation to achieve the goal and the Utilization Plan was approved and contract awarded based upon a determination of good faith, the total dollar value of certified VOSB/SDVOSB vendor work calculated in the approved Utilization Plan as a percentage of the awarded contract value shall become the contract goal.

- 7.1.** The Utilization Plan may not be amended after contract execution without the Agency's prior written approval.
- 7.2. Vendor may not make changes to its contractual certified VOSB/SDVOSB vendor commitments or substitute certified VOSB/SDVOSB vendors without the prior written approval of the Agency.** Unauthorized changes or substitutions, including performing the work designated for a certified VOSB/SDVOSB vendor with Vendor's own forces, shall be a violation of the utilization plan and a breach of the contract, and shall be cause to terminate the contract, and/or seek other contract remedies or sanctions. The facts supporting the request for changes must not have been known nor reasonably should have been known by the parties prior to entering into the subcontract. Vendor must negotiate with the certified VOSB/SDVOSB vendor to resolve the problem. Where there has been a mistake or disagreement about the scope of work or goods/equipment, provided the certified VOSB/SDVOSB vendor can be substituted only where agreement cannot be reached for a reasonable price or schedule for the correct scope of work, goods or equipment.
- 7.3.** Substitutions of a certified VOSB/SDVOSB vendor may be permitted under the following circumstances:
- 7.3.1. Unavailability after receipt of reasonable notice to proceed;
  - 7.3.2. Failure of performance;
  - 7.3.3. Financial incapacity;
  - 7.3.4. Refusal by the certified VOSB/SDVOSB vendor to honor the bid or bid price or scope;
  - 7.3.5. Material mistake of fact or law about the elements of the scope of work of a solicitation where a reasonable price cannot be agreed;
  - 7.3.6. Failure of the certified VOSB/SDVOSB vendor to meet insurance, licensing or bonding requirements;

- 7.3.7. The certified VOSB/SDVOSB vendor's withdrawal of its bid or offer; or
- 7.3.8. Decertification of the certified VOSB/SDVOSB vendor.
- 7.4.** If it becomes necessary to substitute a certified VOSB/SDVOSB vendor or otherwise change the Utilization Plan, Vendor must notify the Agency in writing of the request to substitute a certified VOSB/SDVOSB vendor or otherwise change the Utilization Plan to [contractcompliance@getipass.com](mailto:contractcompliance@getipass.com) to request for approval. The request must state specific reasons for the substitution or change. The Agency will approve or deny a request for substitution or other change in the Utilization Plan within five (5) business days of receipt of the request.
- 7.5.** Where Vendor has established the basis for the substitution to the Agency's satisfaction, it must make good faith efforts to meet the contract goal by substituting a certified VOSB/SDVOSB vendor. Documentation of a replacement certified VOSB/SDVOSB vendor, or of good faith efforts to replace the certified VOSB/SDVOSB vendor, must meet the requirements of the initial Utilization Plan. If the goal cannot be reached and good faith efforts have been made, Vendor may substitute with a non-certified VOSB/SDVOSB vendor or Vendor may perform the work.
- 7.6.** If a Vendor plans to hire a subcontractor for any scope of work that was not previously disclosed in the Utilization Plan, Vendor must obtain the approval of the Agency to modify the Utilization Plan and must make good faith efforts to ensure that certified VOSB/SDVOSB vendors have a fair opportunity to submit a bid or offer on the new scope of work.
- 7.7.** A new certified VOSB/SDVOSB vendor agreement must be executed and submitted to the Agency within five (5) business days of Vendor's receipt of the Agency's approval for the substitution or other change.
- 7.8.** Veteran payment reporting, in such form or format as specified by the Tollway, must be submitted as specified in the Contract Compliance Payment Reporting Instructions posted on the Tollway's website.

After the performance of the final item of work or delivery of material by a VOSB/SDVOSB and final payment to the VOSB/SDVOSB by the contractor, but not later than thirty (30) calendar days after payment has been made by ISTHA to the contractor for such work or material, the contractor shall submit a VOSB/SDVOSB partial and final waivers of lien via B2GNow or such other form or format as specified by the Tollway, to the Construction Manager. If full and final payment has not been made to the VOSB/SDVOSB, the Report shall indicate whether a disagreement concerning the final payment exists between the contractor and the VOSB/SDVOSB or if the contractor believes that the VOSB/SDVOSB's work has not been satisfactorily completed.

All active Tollway vendors/contractors/consultants will be required to use B2GNow. Both diverse and non-diverse subcontractor payments must be reported and confirmed monthly in the system at <https://iltollway.diversitysoftware.com/>.

Vendor shall maintain a record of all relevant data with respect to the utilization of certified VOSB/SDVOSB vendors, including but without limitation, payroll records, invoices, canceled checks and books of account for a period of at least five years after the completion of the contract. Full access to these records shall be granted by Vendor in a timely fashion upon written demand by the Agency to any duly authorized representative thereof, or to any municipal, state or federal authorities. The Agency shall have the right to obtain from Vendor any additional data reasonably related or necessary to verify any representations by Vendor. After the performance of the final item of work or delivery of material by the certified VOSB/SDVOSB vendor and final payment to the certified VOSB/SDVOSB vendor by Vendor, but not later than thirty (30) calendar days after such payment, Vendor shall submit a statement confirming the final payment and the total payments made to the certified VOSB/SDVOSB vendor under the contract.

- 7.9.** The Agency will periodically review Vendor's compliance with these provisions and the terms of its contract. Without limitation, Vendor's failure to comply with these provisions or its contractual commitments as contained in the Utilization Plan, failure to cooperate in providing information regarding its compliance

with these provisions or its Utilization Plan, or provision of false or misleading information or statements concerning compliance, certification status or eligibility of the certified VOSB/SDVOSB vendor, good faith efforts or any other material fact or representation shall constitute a material breach of this contract and entitle the Agency to declare a default, terminate the contract, or exercise those remedies provided for in the contract or at law or in equity.

- 7.10.** The Agency reserves the right to withhold payment to Vendor to enforce these provisions and Vendor's contractual commitments. Final payment shall not be made pursuant to the contract until Vendor submits sufficient documentation demonstrating compliance with its Utilization Plan.
- 7.11.** When a VOSB/SDVOSB firm loses its VOSB/SDVOSB eligibility and certification, the following actions must be taken:
- (a) When a prime contractor has made a commitment to using an ineligible VOSB/SDVOSB firm but a decertification notice is issued before the prime contractor executes a subcontract, the ineligible firm does not count toward the contract goal, and the prime contractor must be directed to meet the contract goal with an eligible VOSB/SDVOSB firm or demonstrate that it has made a good faith effort to do so.
- (b) When the Tollway has made a commitment to using an ineligible VOSB/SDVOSB prime contractor, but a decertification notice is issued before the contract is awarded to the ineligible VOSB/SDVOSB firm, the ineligible VOSB/SDVOSB firm does not count toward the contract goal and the Tollway must meet the contract goal with an eligible DBE firm.
- (c) If a prime contractor executes a subcontract with a VOSB/SDVOSB firm before the firm loses its DBE eligibility and certification, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward the VOSB/SDVOSB goal for the firm's work. In this case, or in a case where a prime contract has been awarded to a VOSB/SDVOSB that is later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after the notice of ineligibility is issued may count toward the contract goal.
- In determining achievement of the contract goal, the participation of a VOSB/SDVOSB shall not be counted until that amount has been paid to the VOSB/SDVOSB.

## **8. VOSB/SDVOSB PAYMENT & JOINT CHECK REQUEST**

- (a) Timely VOSB/SDVOSB Payment – Prime contractors should pay their VOSB/SDVOSB subcontractors for work completed as required within 30 days after the Tollway pays the prime contractor for the VOSB/SDVOSB subcontractors' work. Similarly, first tier VOSB/SDVOSB subcontractors should pay their lower tier subcontractors within 30 days after receiving payment from the prime contractor. VOSB/SDVOSB subcontractors should verify compliance with this timely payment policy in the Tollway's B2Gnow system when responding to monthly audit notices.
- (b) Joint Check Request – Prime contractors and VOSB/SDVOSB subcontractors that require the use of joint checks to pay material suppliers must complete and submit the Tollway's DBE Joint Check Request Form. The prime contractor must ensure that this form is completed and submitted to Tollway Contract Compliance within 30 days after the need for such a payment arises. The form must be completed in its entirety and signed by the VOSB/SDVOSB subcontractor, the material supplier and the prime contractor. No other joint check request form will be accepted. The Tollway will review and approve or deny the joint check request within 15 business days after receiving the completed Joint Check Request Form. It is the responsibility of the prime contractor and VOSB/SDVOSB subcontractor to ensure compliance with all VOSB/SDVOSB joint check policy requirements as outlined in the Tollway's Joint Check policy, including adherence to the commercially useful function, VOSB/SDVOSB independence and check payment verification (by providing a copy of the cancelled joint check to Contract Compliance) requirements.

## **9. GRANTING VOSB/SDVOSB CREDIT FOR CERTIFIED VENDORS NOT INCLUDED IN THE ORIGINAL APPROVED U-PLAN**

On Tollway construction and professional services contracts, VOSB/SDVOSB credit may be granted for work performed by a certified VOSB/SDVOSB that was not listed on the original approved utilization plan if the following requirements are met:

(a) The VOSB/SDVOSB firm's certification was active, at all times, while it performed the scope of work, and the scope of work it performed is in the area(s) of specialty for which the VOSB/SDVOSB firm was certified.

(b) The VOSB/SDVOSB firm performed a commercially useful function for the scope(s) of work for which VOSB/SDVOSB credit is being requested, and all the other requirements for counting VOSB/SDVOSB credit have been met.

(c) While the prime contract is in effect, the prime contractor submits a revised u-plan including the VOSB/SDVOSB firm to Tollway Contract Compliance, as well as documentation verifying actual payment to the DBE/VOSB firm – such as lien waivers, cancelled checks, or evidence of ACH transmittals.



**ILLINOIS STATE TOLL HIGHWAY AUTHORITY  
VOSB FORM 2026 - UTILIZATION PLAN**

CONTRACT NUMBER \_\_\_\_\_  
CORE VALUE AMOUNT \_\_\_\_\_

PRIME CONTRACTOR: \_\_\_\_\_  
CONTACT NAME: \_\_\_\_\_  
CONTACT PHONE NUMBER: \_\_\_\_\_  
CONTACT E-MAIL: \_\_\_\_\_

Check one:

- Contractor will meet or exceed the VOSB Contract Goal and will provide Veteran Owned Small Business Participation as presented below.  
PERCENTAGE OF ADVERTISED VOSB GOAL : \_\_\_\_\_  
PERCENTAGE OF VOSB COMMITMENT: \_\_\_\_\_
- Contractor requests a waiver of the VOSB Contract Goal.  
The Bidder is requesting the contract Goal be accordingly modified or waived. Attached is all information required by the Veteran Small Business Participation and Utilization Plan-Construction in support of this request, including Good Faith Efforts - Form 2023.  
DOLLAR AMOUNT OF WAIVER REQUEST: \_\_\_\_\_  
PERCENTAGE OF WAIVER REQUEST: \_\_\_\_\_  
PERCENTAGE OF VOSB COMMITMENT: \_\_\_\_\_

Instructions to Bidders:

1. Bidders are required to fully read and comply with the Veteran Small Business Participation and Utilization Plan - Construction
2. Submit only one Veteran Utilization Plan for each Project at time of Bid.
3. This Utilization Plan, Form 2026 must:
  - be submitted with the bid or the bid will be deemed non-responsive
  - be an accurate representation of work and pricing agreed upon between the prime and the Veteran firm prior to bid submission
4. The Participation Statement(s) (VOSB Form 2025), with original signatures, pay item description and pricing are to be submitted to Tollway Contract Compliance at [contractcompliance@getipass.com](mailto:contractcompliance@getipass.com). This form is due to the Tollway from the lowest apparent bidder on the fifth (5th) calendar day after bids are due or the bid will be deemed non-responsive.
5. Each company listed on the Utilization Plan and subsequent Participation Statement must be listed in a certifying agency's database as stipulated in the Special Provision at the time of bid submission to be considered acceptable for Veteran credit.
6. In no case should a Contractor remove, replace or reduce the commitment to a Veteran firm listed in the initial Utilization Plan on the Participation Statement without prior written consent of ISTHA. Under no circumstances is the Bidder allowed to change the amount of the core bid submitted or any other documentation unrelated to this special provision.
7. If trucker, please describe if company will transport materials/equipment to or from a Public Works job site or if company will transport materials/equipment by the sellers or suppliers.

VOSB UTILIZATION PLAN		
VOSB Firm Name	Scope of Work Specific description of overall work to be performed	VOSB - Amount (\$) If supplier, enter 60% credit amount.
TOTAL		

For ebid: the submission of Form 2026 constitutes signature of this form.

For hardcopy: signature required.

Form 2026 - 02/2022

Signature

Title

Date



Illinois State Toll Highway Authority "ISTHA"

VOSB FORM 2025 - VOSB PARTICIPATION STATEMENT FORM, PART 2

CONTRACT #		VOSB FIRM NAME:		CIRCLE ALL THAT APPLY	VOSB	SDVOSB
CHECK ALL THAT APPLY:	PRIME _____	JV PARTNER _____	SUBCONTRACTOR _____	TRUCKER _____	SUPPLIER _____	MANUFACTURER _____
IF TRUCKER, CHECK ALL THAT APPLY:	_____ Transportation of materials or equipment to or from a Public Works job site		_____ Transportation of materials or equipment by the sellers or suppliers			
SUBCONTRACTOR:	TIER 1 (SUB TO PRIME):	Y N	TIER 2 OR BELOW:	Y N	UNDER CONTRACT TO:	
Will the VOSB subcontract a portion of its contract to one or more subcontractors?	Y N	_____ Total amount of the VOSB subcontract that will be subcontracted to non VOSB companies		_____ Total amount of the VOSB subcontract that will be subcontracted to VOSB companies		

This form must be completed for EACH veteran-owned business participating in the VOSB Utilization Plan. This form is due to the Tollway from the lowest apparent bidder on the fifth (5<sup>th</sup>) calendar day after bids are due or the bid will be deemed non-responsive to contractcompliance@getipass.com. If additional space is needed, complete an additional form(s) for the firm or attach a detailed information on the VOSB firm company letterhead.

PAY ITEM NO.	DESCRIPTION: Specific description of overall work to be performed. Indicate whether furnish only, or both furnish and install	QUANTITY	UNIT PRICE	TOTAL CONTRACT AMOUNT (\$)	CHECK IF SUPPLIER	TOTAL VOSB CREDIT AMOUNT (\$) <small>(reduce to 60% of contract amount if firm is a SUPPLIER)</small>
<b>TOTALS FOR THIS VOSB FIRM:</b>						

**1. PARTIAL PAY ITEMS:** For any of the above ITEMS that are partial pay items, specifically describe the work and subcontract dollar amount.

**2. SUBCONTRACTING:** If any of the VOSB scope of work will be subcontracted, provide the name of the contractor and attach a brief explanation, description and pay item number of the work that will be subcontracted. VOSB credit will not be given for work subcontracted to Non-VOSB contractors, except for as allowed in the Special Provision for Veteran Small Business.

**3. COMMITMENT:** The undersigned certify that the information herein is true and correct, and that the VOSB listed below has agreed to perform a commercially-useful function in the work of the contractitem(s) listed above and to execute a contract to that effect with the Prime Contractor. The undersigned further understand that NO CHANGES to the type or scope of work performed by the VOSB may be madewithout PRIOR WRITTEN APPROVAL and that complete and accurate information regarding actual work performed by the VOSB on this contract and the payment thereto must be provided to ISTHA's Contract Compliance. **The Prime Contractor will not assign any of the contract items listed above to a firm other than the VOSB identified below without ISTHA's prior written approval. The PrimeContractor must request, in writing, approval by ISTHA's Contract Compliance of any proposed amendment to the type or scope of work to be performed by the VOSB no later thanthree business days from the date the Prime Contractor becomes aware of the circumstances supporting the request. Failure to receive written approval prior to a change in type or scope is a violation of the STATEOF ILLINOIS VETERAN SMALL BUSINESS PARTICPATION AND UTILIZATION PLAN and can subject the contractor to contract sanctions.**

Signature for Prime Contractor \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Contact: \_\_\_\_\_

Firm Name: \_\_\_\_\_

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

Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Signature for VOSB Contractor \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Contact: \_\_\_\_\_

Firm Name: \_\_\_\_\_

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

Phone: \_\_\_\_\_

Address: \_\_\_\_\_



## VOSB FORM 2023

### Demonstration of Good Faith Efforts to Achieve VOSB Construction Subcontracting Goal

If the VOSB contract goal was not achieved, the Good Faith Efforts checklist and contacts log must be submitted with the bid. Failure to do so may render the Bidder's solicitation response non-responsive and cause it to be rejected, or render the Bidder ineligible for contract award, at ISTHA's sole discretion. **The Bidder must provide all evidence relied upon in support of its Good Faith Efforts with its bid.**

#### Good Faith Efforts Checklist

Insert on each line below the initials of the authorized Bidder representative who is certifying the Bidder has completed the activities described below. If any of the items were not completed, attach a detailed written explanation. If any other efforts were made to obtain VOSB/SDVOSB participation in addition to the items listed below, attach a detailed written explanation.

\_\_\_\_\_ Utilize CEI's public online directory website to identify certified VOSB/SDVOSB vendors within the respective commodity/service codes and at a minimum email all listed vendors and solicit quotes from all vendors who express an interest via follow-up emails or telephone calls.

- <https://supplierdiversitymanagementportal.illinois.gov/VendorDirectory.aspx>

\_\_\_\_\_ Identified portions of the contract work capable of performance by available VOSBs/SDVOSBs, including, where appropriate, breaking out contract work items into economically feasible units to facilitate VOSB/SDVOSB participation even when the Bidder could perform those scopes with its own forces.

\_\_\_\_\_ Make a portion of the work available to certified VOSB/SDVOSB vendors and selecting those portions of the work or material needs consistent with their availability, so as to facilitate certified VOSB/SDVOSB vendor participation.

\_\_\_\_\_ Solicited through reasonable and available means (e.g., pre-bid meetings, networking session, written notices, advertisements) VOSBs/SDVOSBs to perform the types of work that could be subcontracted on this project, within sufficient time to allow them to respond. Vendor must determine with certainty if the certified VOSB/SDVOSB vendors are interested by taking appropriate steps to follow up initial solicitations and encourage them to submit a bid.

\_\_\_\_\_ Provided timely and adequate information about the plans, specifications and requirements of the contract. Followed up initial solicitations to answer questions and encourage VOSBs/SDVOSBs to submit bids.

\_\_\_\_\_ Negotiated in good faith with interested VOSBs/SDVOSBs that submitted bids and thoroughly investigated their capabilities. Evidence of such negotiation must include the names, addresses, email addresses, and telephone numbers of certified VOSB/SDVOSB vendors that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting and evidence as to why additional agreements could not be reached for certified VOSB/SDVOSB vendors to perform the work. A Vendor using good business judgment may consider a number of factors in negotiating with certified VOSB/SDVOSB vendors and may take a firm's price and capabilities into consideration. The fact that there may be some additional costs involved in finding and using certified VOSB/SDVOSB vendors may not be in itself sufficient reason for a Vendor's failure to meet the goal, as long as such costs are reasonable. Vendors are not required to accept higher quotes from certified VOSB/SDVOSB vendors if the price difference is excessive or unreasonable. The certified VOSB/SDVOSB vendor's memberships in specific groups, organizations, or associations and political or social affiliations are not legitimate causes for the rejection or non-solicitation of bids in Vendor's efforts to meet the goal.



## VOSB FORM 2023 page 2

\_\_\_\_\_ Made efforts to assist interested VOSBs/SDVOSBs in obtaining bonding, lines of credit, or insurance as may be required for performance of the contract (if applicable).

\_\_\_\_\_ Made efforts to assist interested certified VOSB/SDVOSB vendors in obtaining necessary equipment, supplies, materials, or related assistance or services.

\_\_\_\_\_ Utilized resources available to identify available VOSBs/SDVOSBs, including but not limited to VOSB/SDVOSB assistance groups; local, state and federal business assistance offices; and other organizations that provide assistance in the recruitment and placement of VOSBs/SDVOSBs.

**Affidavit of Truthfulness: Signature below affirms accuracy of Good Faith Efforts and Tollway to provide above information**

Print Name: \_\_\_\_\_ Phone contact: \_\_\_\_\_

Position: \_\_\_\_\_ E-mail address: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



# VOSB FORM 2023

## Good Faith Efforts Contacts Log for Soliciting - VOSB Participation: Form 2023 continued

Project name: \_\_\_\_\_ Project number: \_\_\_\_\_

Bidder name: \_\_\_\_\_ Contact person: \_\_\_\_\_

Use this form to document all contacts and responses (telephone, e-mail, fax, etc.) regarding the solicitation of VOSBs/SDVOSBs. Duplicate as needed. **The Bidder must provide all evidence relied upon in support of its Good Faith Efforts with its bid.**

Name of VOSB/SDVOSB	Date and method of contact	Scope of work solicited	Reason agreement was not reached

**Affidavit of Truthfulness:** Signature below affirms accuracy of Good Faith Efforts and Tollway to provide above information

**Print Name:** \_\_\_\_\_

**Phone contact:** \_\_\_\_\_

**Position:** \_\_\_\_\_

**E-mail address:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

# ILLINOIS STATE TOLL HIGHWAY AUTHORITY

## SPECIAL PROVISION

### FOR

## BID CREDIT INCENTIVE PROGRAMS

### 1. OBJECTIVE OF THE BID CREDIT INCENTIVE PROGRAM

The TOLLWAY offers programs allowing a contractor or subcontractor/fabricator to earn BID CREDITS to be used toward future TOLLWAY construction bids. A Bidder can then apply its BID CREDITS to a maximum BID CREDIT CAP assigned by the TOLLWAY to each contract in order to lower their bid amount and increase the chances of winning the contract as the low Bidder.

Use of BID CREDITS from the BID CREDIT Incentive Programs is applicable only to construction projects advertised by the TOLLWAY for public bidding.

Current TOLLWAY BID CREDIT Programs are:

- ConstructionWorks (CW) Program: encouraging contractors to employ and retain qualified and eligible CW individuals enrolled in the CW Program, including African Americans, Asians, Hispanic, Ex-offenders, exonerated individuals, Females, Veterans and other traditionally underserved populations.
- Earned Credit Program (ECP): encouraging contractors to employ and retain qualified and eligible Workforce Innovation and Opportunity Act eligible individuals, including African Americans, Asians, Hispanic, Ex-offenders, exonerated individuals, Females, Veterans and other traditionally underserved populations.
- Partnering for Growth – Construction (P4G-Con): encouraging contractors to mentor a Disadvantaged Business Enterprise or Veteran-owned Small Business protégé firm.

For more information, reference the Operational Guide for each program on the TOLLWAY's website, <https://www.illinoistollway.com/doing-business/diversity-overview>

### 2. DEFINITIONS

*ACTIVE BID CREDIT CERTIFICATE REGISTER*: Listing of all active BID CREDIT CERTIFICATEs for all BID CREDIT programs indicating certificate number, value, owner and issue date.

*ACTIVE BID CREDITS*: BID CREDITS available for submission and utilization on a construction bid.

*AWARD CRITERIA*: Contractor's BASE BID minus BID CREDIT submitted subject to the BID CREDIT CAP identified for each solicitation.

*BASE BID*: The bid amount prior to applying BID CREDITS SUBMITTED.

*BID CREDIT*: Virtual dollar credits earned through a TOLLWAY BID CREDIT Program.

*BID CREDIT ALLOCATION*: When BID CREDITS SUBMITTED by a prime contractor and subcontractor/fabricator are applied proportionally to the total of all the BID CREDITS originally submitted with the bid.

*BID CREDIT CAP*: A contract-specific limit as determined by an approved TOLLWAY formula on the amount of ACTIVE BID CREDITS that can be applied as BID CREDITS. Any BID CREDITS SUBMITTED above and beyond the BID CREDIT CAP will not be considered.

*BID CREDIT CERTIFICATE*: A numbered document that identifies certificate number, value, owner and issue date.

*BID CREDITS SUBMITTED*: BID CREDITS included in a construction bid as evidenced by a BID CREDIT CERTIFICATE. The total amount of the certificate(s) will be considered as tendered unless otherwise indicated on the physical certificate.

*BID CREDITS UTILIZED*: The amount of BID CREDITS required to establish the apparent low Bidder based on the difference between the award criteria of the lowest Bidder and the next apparent low Bidder plus \$1.00 of BID CREDIT.

*INACTIVE BID CREDITS*: BID CREDIT not available for submission due to utilization on a construction bid or superseded by current ACTIVE BID CREDITS.

TOLLWAY: The Illinois State Toll Highway Authority.

### **3. EARNING BID CREDITS**

Refer to the Operational Guides for active TOLLWAY BID CREDIT Programs as posted on the TOLLWAY's website, <https://www.illinoistollway.com/doing-business/diversity-development/programs/ecp>

### **4. BIDDING PROCEDURES**

All bids must comply with the applicable procurement statutes, rules and regulations and the specific requirements of each solicitation to be considered responsive. Bids that fail to meet these minimum requirements may be considered non-responsive.

4.1 Each bid solicitation will have a contract-specific total BID CREDIT CAP as determined by the approved TOLLWAY formula on the amount of BID CREDIT that can be applied.

4.2 Any credits applied above and beyond the BID CREDIT CAP will not be considered.

4.3 If needed, contractors can check the appropriate ACTIVE BID CREDIT CERTIFICATE REGISTER on the TOLLWAY's website to ensure BID CREDIT CERTIFICATES SUBMITTED are active.

4.4 The BID CREDIT CAP may be met by BID CREDITS:

4.4.1 Earned from one BID CREDIT program or from a combination of BID CREDIT programs, as BID CREDIT CERTIFICATES are now issued as one certificate covering all BID CREDIT programs

4.4.2 Offered for submission by joint venture partners independently, and/or by subcontractors/fabricators independently, as per Section 5 below. If BID CREDITS from different firms are submitted on the same bid, the BID CREDITS are applied via BID CREDIT ALLOCATION as defined above proportionally to the amounts originally submitted on the bid.

4.5 Entering BID CREDITS on the bid forms:

- The BASE BID is to be clearly identified on line #1 of the P page;
- Line #2 is to include the total amount of BID CREDIT applied to the bid;
- Line #3 is to include the AWARD CRITERIA (Line #1 minus Line #2 equals Line #3).

4.6 All BID CREDIT CERTIFICATES submitted to calculate the BID CREDIT included on Line #2 must be included in the original bid package.

- 4.7 All BID CREDITS UTILIZED to become or remain the successful Bidder will become unavailable for inclusion in any other bid at the time the Bidder's AWARD CRITERIA is deemed the lowest responsive and responsible bid.
- 4.8 The BID CREDIT CERTIFICATE(s) will be redeemed up to the amount needed plus \$1 to allow the contractor's bid to be the lowest apparent bid for award of the contract and any unused remaining balance will be returned in the form of a BID CREDIT CERTIFICATE(s) to the contractor, or subcontractor/fabricator if applicable.

## 5. JOINT VENTURE AND SUBCONTRACTOR/FABRICATOR PARTICIPATION

- 5.1 Joint Venture partners who own BID CREDITS may independently submit BID CREDITS toward the joint venture bid subject to the overall BID CREDIT CAP.
- 5.2 Subcontractors/fabricators who own BID CREDITS may provide those BID CREDITS to prime contractors to be applied by prime contractors in a bid solicitation, provided the prime contractor has committed to utilizing the subcontractor/fabricator in the performance of the contract unless such use is prohibited for reasons beyond the prime contractor's control.
- 5.3 In the event that a subcontractor/fabricator becomes disqualified from contract participation by no fault of the prime, (i.e. delinquent debt, etc.) the actual ACTIVE BID CREDITS UTILIZED by the disqualified subcontractor/fabricator that factored into the apparent winning bid will not be refunded to the subcontractor's BID CREDIT certificate balance.
- 5.4 For subcontractor/fabricator BID CREDIT to be considered for utilization on a bid by a prime contractor:
- 5.4.1 The prime contractor must include BID CREDIT owned by the prime Bidder along with the BID CREDIT from the subcontractor/fabricator for application to the bid.
- 5.4.2 The amount of BID CREDITS submitted by the prime contractor shall be no less than the lowest dollar amount submitted by any subcontractor/fabricator application to the bid.
- 5.4.2.1 An allowance may be made in cases where the prime contractor's total BID CREDITS owned are less than those of the subcontractor/fabricator.
- In no case can the prime offer less than \$1,000 in BID CREDITS.
  - In instances where the prime has BID CREDITS but the total amount of the prime's BID CREDITS is less than any subcontractor's BID CREDITS offered with a bid, the prime's BID CREDITS will be utilized and exhausted before a subcontractor's BID CREDITS will be applied to the bid.
- 5.4.2.2 Failure to meet this standard will result in the BID CREDITS SUBMITTED not being considered.
- 5.4.3 The prime contractor is required to perform the following:
- Ensure that the subcontractor is aware of and has provided permission to the Bidder as indicated on the BID CREDIT CERTIFICATE to use the BID CREDIT CERTIFICATE in the bid solicitation;
  - Identify the scope of work and dollar amount committed to each subcontractor/fabricator where a BID CREDIT CERTIFICATE is being calculated in the BID CREDIT;
  - Ensure that the BID CREDIT CERTIFICATE is in active mode, which can be done through checking the ACTIVE BID CREDIT CERTIFICATE REGISTER on the TOLLWAY's website ([www.illinoistollway.com](http://www.illinoistollway.com) and click on "Doing Business") prior to submitting a BID CREDIT BID CREDIT CERTIFICATE in a TOLLWAY bid solicitation;

5.4.4 Ensure that the total amount of BID CREDIT CERTIFICATES does not exceed the contract-specific total BID CREDIT CAP. In the event of a successful bid, excess credits shall be returned via BID CREDIT ALLOCATION in proportion to what was originally submitted by the prime(s) and subcontractor/fabricator(s).

5.4.5 Insert a copy of this TOLLWAY SPECIAL PROVISION FOR BID CREDIT INCENTIVE PROGRAMS in each and every subcontract or joint venture agreement under this Contract and it shall become a material term of the subcontracts.

5.5 BID CREDITS SUBMITTED by the prime contractor, joint venture partner(s) and/or subcontractor/fabricator(s) are applied via BID CREDIT ALLOCATION, proportionally to the amounts originally submitted on the bid.

## **6. LONGEVITY OF BID CREDIT CERTIFICATES**

6.1 Unused BID CREDITS do not expire.

6.2 BID CREDITS will become INACTIVE BID CREDITS once utilized in a successful bid.

6.3 Should the same BID CREDIT CERTIFICATE be submitted in multiple bids on the same date:

- Where multiple solicitations have the same bid opening date, the TOLLWAY will typically open bids in numerical order with the lowest project number per the last four digits of the contract being opened first.
- The first bid opened containing the BID CREDIT CERTIFICATE will be considered for bid.
- All other bids containing a duplicate BID CREDIT CERTIFICATE will be placed in a suspended mode until the award recommendation of the prior bid(s) has been issued.
- Until such time of award recommendation, all duplicate BID CREDIT CERTIFICATES will be Inactivated as applicable and the remaining BID CREDIT(s) and AWARD CRITERIA will be recalculated for subsequent bids.

As an example: Bid 01 (RR-XX-1234) included BID CREDIT CERTIFICATE A for \$100, Bid 02 (RR-XX-5678) also included BID CREDIT CERTIFICATE A for \$100. Bid 01 utilized \$50 of BID CREDIT CERTIFICATE A. Upon award recommendation of Bid 01, BID CREDIT CERTIFICATE A has \$50 remaining available for consideration in Bid 02.

6.4 As stated in Section 4.8 above, the BID CREDIT CERTIFICATE(s) will be redeemed up to the amount needed plus \$1 to allow the contractor's bid to be the lowest apparent bid for award of the contract and any unused remaining balance will be returned in the form of a revised BID CREDIT CERTIFICATE(s) to the contractor or subcontractor/fabricator if applicable.

## **7. FRAUDULENT USE OF BID CREDIT CERTIFICATES**

Any contractor who knowingly submits an INACTIVE BID CREDITS shall be permanently barred from participating in any TOLLWAY BID CREDIT program.

Any contractor who submits a subcontractor/fabricator's BID CREDIT CERTIFICATE without the permission of the subcontractor/fabricator and/or without committing to utilizing the subcontractor/fabricator by scope of service and dollar value of commitment in the bid shall be permanently barred from participating in any TOLLWAY BID CREDIT program.

The TOLLWAY may report such reporting abuses to the Office of the Inspector General and applicable law enforcement authorities.



ILLINOIS TOLLWAY
STANDARD BUSINESS TERMS AND CONDITIONS

ILLINOIS TOLLWAY CONTRACT NO.: \_\_\_\_\_

CONTRACTOR/CONSULTANT NAME: \_\_\_\_\_

1. PAYMENT TERMS AND CONDITIONS:

- 1.1 Minority Contractor Initiative: Any Vendor awarded a contract under Section 20-10, 20-15, 20-25 or 20-30 of the Illinois Procurement Code (30 ILCS 500) of \$1,000 or more is required to pay a fee of \$15. The Comptroller shall deduct the fee from the first check issued to the Vendor under the contract and deposit the fee in the Comptroller's Administrative Fund. 15 ILCS 405/23.9.
1.2 Expenses: The State will not pay for supplies provided or services rendered, including related expenses, incurred prior to the execution of this contract by the Parties even if the effective date of the contract is prior to execution.
1.3 Prevailing Wage: As a condition of receiving payment Vendor must (i) be in compliance with the contract, (ii) pay its employees prevailing wages when required by law, (iii) pay its suppliers and subcontractors according to the terms of their respective contracts, and (iv) provide lien waivers to the State upon request. Examples of prevailing wage categories include public works, printing, janitorial, window washing, building and grounds services, site technician services, natural resource services, security guard and food services. The prevailing wages are revised by the Department of Labor and are available on the Department's official website, which shall be deemed proper notification of any rate changes under this subsection. Vendor is responsible for contacting the Illinois Department of Labor to ensure understanding of prevailing wage requirements at 217-782-6206 or (http://www.state.il.us/agency/idol/index.htm).
1.4 Federal Funding: This contract may be partially or totally funded with Federal funds. If federal funds are expected to be used, then the percentage of the good/service paid using Federal funds and the total Federal funds expected to be used will be provided in the award notice.
1.5 Invoicing: By submitting an invoice, Vendor certifies that the supplies or services provided meet all requirements of the contract, and the amount billed and expenses incurred are as allowed in the contract. Invoices for supplies purchased, services performed and expenses incurred through December 31 of any year must be submitted to the State no later than February 28 of the following year; otherwise Vendor may have to seek payment through the Illinois Court of Claims. 30 ILCS 105/25. All invoices are subject to statutory offset. 30 ILCS 210.
1.5.1 Vendor shall not bill for any taxes unless accompanied by proof that the State is subject to the tax. If necessary, Vendor may request the applicable Agency/University state tax exemption number and federal tax exemption information.
1.5.2 Vendor shall invoice at the completion of the contract unless invoicing is tied in the contract to milestones, deliverables, or other invoicing requirements agreed to in the contract.

2. ASSIGNMENT: This contract may not be assigned, transferred in whole or in part by Vendor without the prior written consent of the State.

3. **AUDIT/RETENTION OF RECORDS:** Vendor and its subcontractors shall maintain books and records relating to the performance of the contract or subcontract and necessary to support amounts charged to the State pursuant the contract or subcontract. Books and records, including information stored in databases or other computer systems, shall be maintained by the Vendor for a period of five years from the later of the date of final payment under the contract or completion of the contract, and by the subcontractor for a period of five years from the later of final payment under the term or completion of the subcontract. Books and records required to be maintained under this section shall be available for review or audit by representatives of: the procuring Agency/University, the Auditor General, the Executive Inspector General, the Chief Procurement Officer, the Tollway Inspector General, State of Illinois internal auditors or other governmental entities with monitoring authority, upon reasonable notice and during normal business hours. Vendor and its subcontractors shall cooperate fully with any such audit and with any investigation conducted by any of these entities. Failure to maintain books and records required by this section shall establish a presumption in favor of the State for the recovery of any funds paid by the State under the contract for which adequate books and records are not available to support the purported disbursement. The Vendor or subcontractors shall not impose a charge for audit or examination of the Vendor's books and records. 30 ILCS 500/20-65.
4. **TIME IS OF THE ESSENCE:** Time is of the essence with respect to Vendor's performance of this contract. Vendor shall continue to perform its obligations while any dispute concerning the contract is being resolved unless otherwise directed by the State.
5. **NO WAIVER OF RIGHTS:** Except as specifically waived in writing, failure by a Party to exercise or enforce a right does not waive that Party's right to exercise or enforce that or other rights in the future.
6. **FORCE MAJEURE:** Failure by either Party to perform its duties and obligations will be excused by unforeseeable circumstances beyond its reasonable control and not due to its negligence, including acts of nature, acts of terrorism, riots, labor disputes, fire, flood, explosion, and governmental prohibition. The non-declaring Party may cancel the contract without penalty if performance does not resume within 30 days of the declaration.
7. **CONFIDENTIAL INFORMATION:** Each Party, including its agents and subcontractors, to this contract may have or gain access to confidential data or information owned or maintained by the other Party in the course of carrying out its responsibilities under this contract. Vendor shall presume all information received from the State or to which it gains access pursuant to this contract is confidential. Vendor information, unless clearly marked as confidential and exempt from disclosure under the Illinois Freedom of Information Act, shall be considered public. No confidential data collected, maintained, or used in the course of performance of the contract shall be disseminated except as authorized by law and with the written consent of the disclosing Party, either during the period of the contract or thereafter. The receiving Party must return any and all data collected, maintained, created or used in the course of the performance of the contract, in whatever form it is maintained, promptly at the end of the contract, or earlier at the request of the disclosing Party, or notify the disclosing Party in writing of its destruction. The foregoing obligations shall not apply to confidential data or information lawfully in the receiving Party's possession prior to its acquisition from the disclosing Party; received in good faith from a third Party not subject to any confidentiality obligation to the disclosing Party; now is or later becomes publicly known through no breach of confidentiality obligation by the receiving Party; or is independently developed by the receiving Party without the use or benefit of the disclosing Party's confidential information.
8. **USE AND OWNERSHIP:** All work performed or supplies created by Vendor under this contract, whether written documents or data, goods or deliverables of any kind, shall be deemed work for hire under copyright law and all intellectual property and other laws, and the State of Illinois is granted sole and exclusive ownership to all such work, unless otherwise agreed in writing. Vendor hereby assigns to the State all right, title, and interest in and to such work including any related intellectual property rights, and/or waives any and all claims that Vendor may have to such work including any so-called "moral rights" in connection with the work. Vendor acknowledges the

State may use the work product for any purpose. Confidential data or information contained in such work shall be subject to confidentiality provisions of this contract.

9. **INDEMNIFICATION AND LIABILITY:** The Vendor shall indemnify and hold harmless the Tollway and State of Illinois, their directors, agencies, officers, employees, agents and volunteers from any and all costs, demands, expenses, losses, claims, damages, liabilities, settlements and judgments, including in-house and contracted attorneys' fees and expenses, arising out of: (a) any breach or violation by Vendor of any of its certifications, representations, warranties, covenants or agreements; (b) any actual or alleged death or injury to any person, damage to any property or any other damage or loss claimed to result in whole or in part from Vendor's negligent performance; or (c) any negligent act, activity or omission of Vendor or any of its employees, representatives, subcontractors or agents. Neither Party shall be liable for incidental, special, consequential or punitive damages.
10. **INDEPENDENT CONTRACTOR:** Vendor shall act as an independent contractor and not an agent or employee of, or joint venture with the State. All payments by the State shall be made on that basis.
11. **SOLICITATION AND EMPLOYMENT:** Vendor shall not employ any person employed by the State during the term of this contract to perform any work under this contract. Vendor shall give notice immediately to the Agency's director if Vendor solicits or intends to solicit State employees to perform any work under this contract.
12. **COMPLIANCE WITH THE LAW:** The Vendor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, orders, federal circulars and all license and permit requirements in the performance of this contract. Vendor shall be in compliance with applicable tax requirements and shall be current in payment of such taxes. Vendor shall obtain at its own expense, all licenses and permissions necessary for the performance of this contract.
13. **BACKGROUND CHECK:** Whenever the State deems it reasonably necessary for security reasons, the State may conduct, at its expense, criminal and driver history background checks of Vendor's and subcontractors officers, employees or agents. Vendor or subcontractor shall reassign immediately any such individual who, in the opinion of the State, does not pass the background check.
14. **APPLICABLE LAW:** This contract shall be construed in accordance with and is subject to the laws and rules of the State of Illinois. The Department of Human Rights' Equal Opportunity requirements (44 Ill. Adm. Code 750) are incorporated by reference. Any claim against the State arising out of this contract must be filed exclusively with the Illinois Court of Claims. 705 ILCS 505/1. The State shall not enter into binding arbitration to resolve any contract dispute. The State of Illinois does not waive sovereign immunity by entering into this contract. The official text of cited statutes is incorporated by reference. An unofficial version can be viewed at <http://www.ilga.gov>.
15. **ANTI-TRUST ASSIGNMENT:** If Vendor does not pursue any claim or cause of action it has arising under federal or state antitrust laws relating to the subject matter of the contract, then upon request of the Illinois Attorney General, Vendor shall assign to the State rights, title and interest in and to the claim or cause of action.
16. **CONTRACTUAL AUTHORITY:** The Agency that signs for the State of Illinois shall be the only State entity responsible for performance and payment under the contract. When the Chief Procurement Officer or authorized designee signs in addition to an Agency, they do so as approving officer and shall have no liability to Vendor. When the Chief Procurement Officer or authorized designee, or State Purchasing Officer signs a master contract on behalf of State agencies, only the Agency that places an order with the Vendor shall have any liability to Vendor for that order.
17. **NOTICES:** Notices and other communications provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by courier (UPS, Federal Express or other similar and

reliable carrier), by e-mail, or by fax showing the date and time of successful receipt. Notices shall be sent to the individuals who signed the contract using the contact information following the signatures. Each such notice shall be deemed to have been provided at the time it is actually received. By giving notice, either Party may change the contact information.

- 18. MODIFICATIONS AND SURVIVAL:** Amendments, modifications and waivers must be in writing and signed by authorized representatives of the Parties. Any provision of this contract officially declared void, unenforceable, or against public policy, shall be ignored and the remaining provisions shall be interpreted, as far as possible, to give effect to the Parties' intent. All provisions that by their nature would be expected to survive, shall survive termination. In the event of a conflict between the State's and the Vendor's terms, conditions and attachments, the State's terms, conditions and attachments shall prevail.
- 19. PERFORMANCE RECORD / SUSPENSION:** Upon request of the State, Vendor shall meet to discuss performance or provide contract performance updates to help ensure proper performance of the contract. The State may consider Vendor's performance under this contract and compliance with law and rule to determine whether to continue the contract, suspend Vendor from doing future business with the State for a specified period of time, or to determine whether Vendor can be considered responsible on specific future contract opportunities.
- 20. FREEDOM OF INFORMATION ACT:** This contract and all related public records maintained by, provided to or required to be provided to the State are subject to the Illinois Freedom of Information Act (FOIA) (50 ILCS 140) notwithstanding any provision to the contrary that may be found in this contract.
- 21. SCHEDULE OF WORK:** Any work performed on State premises shall be done during the hours designated by the State and performed in a manner that does not interfere with the State and its personnel.
- 22. WARRANTIES FOR SUPPLIES AND SERVICES:**
  - 22.1 Vendor warrants that the supplies furnished under this contract will: (a) conform to the standards, specifications, drawing, samples or descriptions furnished by the State or furnished by the Vendor and agreed to by the State, including but not limited to all specifications attached as exhibits hereto; (b) be merchantable, of good quality and workmanship, and free from defects for a period of twelve months or longer if so specified in writing, and fit and sufficient for the intended use; (c) comply with all federal and state laws, regulations and ordinances pertaining to the manufacturing, packing, labeling, sale and delivery of the supplies; (d) be of good title and be free and clear of all liens and encumbrances and; (e) not infringe any patent, copyright or other intellectual property rights of any third party. Vendor agrees to reimburse the State for any losses, costs, damages or expenses, including without limitations, reasonable attorney's fees and expenses, arising from failure of the supplies to meet such warranties.
  - 22.2 Vendor shall insure that all manufacturers' warranties are transferred to the State and shall provide a copy of the warranty. These warranties shall be in addition to all other warranties, express, implied or statutory, and shall survive the State's payment, acceptance, inspection or failure to inspect the supplies.
  - 22.3 Vendor warrants that all services will be performed to meet the requirements of the contract in an efficient and effective manner by trained and competent personnel. Vendor shall monitor performances of each individual and shall reassign immediately any individual who is not performing in accordance with the contract, who is disruptive or not respectful of others in the workplace, or who in any way violates the contract or State policies.
- 23. REPORTING, STATUS AND MONITORING SPECIFICATIONS:**
  - 23.1 Vendor shall immediately notify the State of any event that may have a material impact on Vendor's ability

to perform the contract.

23.2 By August 31 of each year, Vendor shall report to the Agency or University the number of qualified veterans and certain ex-offenders hired during Vendor's last completed fiscal year. Vendor may be entitled to employment tax credit for hiring individuals in those groups. 35 ILCS 5/216, 5/217.

24. **EMPLOYMENT TAX CREDIT:** Vendors who hire qualified veterans and certain ex-offenders may be eligible for tax credits. 30 ILCS 500/45-67 and 45-70. Please contact the Illinois Department of Revenue (telephone #: 217-524-4772) for information about tax credits.

25. **SUPPLEMENTAL PROVISIONS**

25.1 **TOLLWAY SUPPLEMENTAL PROVISIONS**

25.1.1 Agents and Employees:

Vendor shall be responsible for the negligent acts and omissions of its agents, employees and **subcontractors in their performance of Vendor's duties under this Contract. Vendor represents that it shall** utilize the services of individuals skilled in the profession for which they will be used in performing services or supplying goods hereunder. In the event that the Tollway determines that any individual performing services or supplying goods for Vendor hereunder is not providing such skilled services or delivery of goods, it shall promptly notify the Vendor and the Vendor shall replace that individual.

25.1.2 Publicity:

Vendor shall not, in any advertisement or any other type of solicitation for business, state, indicate or otherwise imply that it is under contract to the Tollway nor shall the Tollway's name be used in any such advertisement or solicitation without prior written approval except as required by law.

25.1.3 Third Party Beneficiaries:

There are no third party beneficiaries to this Contract. This Contract is intended only to benefit the Tollway/Buyer and the Vendor.

25.1.4 Successors In Interest:

All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

25.1.5 Venue:

Any claim against the Tollway arising out of this contract must be filed exclusively with Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois for State claims and the U.S. District Court for the Northern District of Illinois for Federal claims.

25.1.5.1 Whenever "State" is used or referenced in this Contract, it shall be interpreted to mean "Tollway".

25.1.5.2 The State Prompt Payment Act (30 ILCS 40) does not apply to the Tollway.

25.1.5.3 The Tollway is not currently an appropriated agency.

25.2 **REPORT OF A CHANGE IN CIRCUMSTANCES:** The Contractor agrees to report to the TOLLWAY as soon as practically possible, but no later than 21 days following any change in facts or circumstances that might impact the CONTRACTOR's ability to satisfy its legal or contractual responsibilities and obligations under

this contract. Required reports include, but are not limited to changes in the CONTRACTOR's Certification/Disclosure Forms, the CONTRACTOR's IDOT pre-qualification, or any certification or licensing required for this project. Additionally, (CONTRACTOR/VENDOR) agrees to report to the Tollway within the above timeframe any arrests, indictments, convictions or other matters involving the CONTRACTOR, or any of its principals, that might occur while this contract is in effect. This reporting requirement does not apply to common offenses, including but not limited to minor traffic/vehicle offenses.

Further, the CONTRACTOR agrees to incorporate substantially similar reporting requirements into the terms of any and all subcontracts relating to work performed under this agreement. The (CONTRACTOR/VENDOR) agrees to forward or relay to the Tollway any reports received from subcontractors pursuant to this paragraph within twenty-one (21) days.

Finally, the CONTRACTOR acknowledges and agrees that the failure of the CONTRACTOR to comply with this reporting requirement shall constitute a material breach of contract which may result in this contract being declared void.

### **25.3 PAYMENT DATA REPORTING REQUIREMENT**

The Tollway requires contractors to report all payments received and/or paid to other firms pursuant to this contract in the form prescribed by the Tollway.

All active Tollway vendors/contractors/consultants will be required to use B2GNow. Both diverse and non-diverse subcontractor payments must be reported and confirmed monthly in the system at

B2Gnow is the Tollway monitoring system and can be found at: <https://iltollway.diversitysoftware.com>

(If hyperlink does not load, copy and paste the address into your web browser's address bar)

### **25.4 COVID-19 PROTECTIONS**

In response to the COVID-19 pandemic, Governor J.B. Pritzker issued Executive Order 2021-22 and 2021-23. These Executive Orders mandate certain contractors shall use face coverings, have COVID-19 vaccinations, or undergo testing for COVID-19 when in indoor public places, Health Care Facilities, Schools, Institutions of Higher Education, and State-owned and operated congregate facilities. Vendor shall adhere to the requirements of these Executive Orders as applied by the Agency. The Agency may also implement vaccination or testing requirements that exceed those in the Executive Orders.

### **25.4 VENDOR SUPPLEMENTAL PROVISIONS**

Vendor Supplemental Provisions:

**STATE OF ILLINOIS**  
**SOLICITATION AND CONTRACT TERMS AND CONDITIONS EXCEPTIONS**

\_\_\_\_\_ agrees with the terms and conditions set forth in the State of Illinois Invitation for Bid, including the standard terms and conditions, the Agency/University supplemental provisions, certifications, and disclosures, with the following exceptions:

	Excluding certifications required by statute to be made by the Vendor, both Parties agree that all of the duties and obligations that the Vendor owes to the Agency/University for the work performed shall be pursuant to the solicitation and resulting contract, and Vendor's exceptions accepted by the State thereto as set forth below.
	<b>STANDARD TERMS AND CONDITIONS</b>
<b>Section/ Subsection #</b>	State the exception such as "add," "replace," and/or "delete."
	<b>ADDITIONAL TERMS AND CONDITIONS</b>
<b>New Provision(s), # et. seq.</b>	<b>Section/Subsection New Number, Title of New Subsection:</b> State the new additional term or condition.

\_\_\_\_\_ hereby agrees to the exceptions provided by \_\_\_\_\_ and to the Additional Terms and Conditions provided by \_\_\_\_\_.

Agreed:	Agreed:
By:	By:
Signed:	Signed:
Position:	Position:
Date:	Date:



**Date:** \_\_\_\_\_ **Project Number:** \_\_\_\_\_

**Project Name:** \_\_\_\_\_

**CONTRACTOR/CONSULTANT DELINQUENT DEBT REVIEW**

Sub-Contractor/Consultant Disclosure.

Will you be using any sub-consultants/contractors?  Yes  No

If yes, you must identify below, to the extent the information is known, regardless of the subcontract value, the names, addresses and type of work all Sub-Contractors/Consultants that will be utilized in the performance of this Contract, together with the anticipated dollar value (Sub-Contractors) or percentage (Sub-Consultants) each is expected to receive pursuant to this Contract. The list of sub-contractors/consultants should include but not be limited to sub-contractors/consultants, suppliers and truckers proposed to achieve disadvantaged business enterprise and veteran owned business goals. The State may request updated information at any time. For purposes of this section Sub-Contractors/Consultants are those specifically hired to perform part of the work of this contract. Non-DBE suppliers and truckers do not need to be included.

Upon request, our firm agrees to provide a copy of the subcontract, if required, within fifteen (15) days after execution of the contract if selected, or after execution of the subcontract, whichever is later, for those subcontracts with an annual value of more than \$100,000. All subcontracts over \$100,000 must include the same certifications that the Vendor must make as a condition of the contract. The vendor shall include in each subcontract the subcontractor certifications as shown on the Standard Subcontractor Certification form available from the State.

Delinquent Payment. The Contractor/Consultant certifies that it, or any affiliate, is not barred from being awarded a contract under 30 ILCS 500. Section 50-11 prohibits a person from entering into a contract with a State agency if it knows or should know that it, or any affiliate, is delinquent in the payment of any debt to the State as defined by the Debt Collection Board. Section 50-12 prohibits a person from entering into a contract with the State agency if it, or any affiliate, has failed to collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act. The Contractor/Consultant further acknowledges that the contracting State agency may declare the contract void if this certification is false or if the Contractor/Consultant or any affiliate is determined to be delinquent in the payment of any debt to the State during the term of the contract.

**Contractor/Consultant:** \_\_\_\_\_

**Federal Employment Identification Number (FEIN):** \_\_\_\_\_

**E-Mail:** \_\_\_\_\_

Include an attachment if more space is needed to provide the below information. The attachment must provide the requested information.

**NOTE for Construction Contracts: List all known subcontractors including those identified in the Bid Package on DBE Form 2026 and VOSB Form 2026, and include any name listed in the "Under Contract To" section of these forms.**

<u>Sub-Contractor(s)/Consultant(s)</u>	<u>Sub-Contractor/Consultant FEIN</u>	<u>Address</u>	<u>General Type of Work</u>	<u>Anticipated Amount of Contract to be Paid (to extent known) Sub-Contractor (dollar value) or Sub-Consultant (percentage)</u>

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_



**Substance Abuse Prevention  
Program Certification  
Public Act 95-0635**

Contract # \_\_\_\_\_

Today's  
Date \_\_\_\_\_

The undersigned Contractor(s) and Subcontractor(s) certify that they have read the provisions of the Substance Abuse Prevention on Public Works Act, Public Act 95-0635, and are in compliance with the terms of the Act.

\_\_\_\_The Contractor/Subcontractors hereby certify that they are exempt from the provisions of Public Act 95-0635 because it is a party to a collective bargaining agreement that deals with Substance Abuse and Prevention as provided for in the Act.

\_\_\_\_The Contractor/Subcontractors hereby certify they have a program in place to address Substance Abuse and Prevention as provided for in the Act and will submit the same to the Illinois Tollway prior to issuance of an Authorization to Proceed.

Contractor

\_\_\_\_\_  
Name/Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

Subcontractor

\_\_\_\_\_  
Name/Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

Subcontractor

\_\_\_\_\_  
Name/Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

Subcontractor

\_\_\_\_\_  
Name/Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

Subcontractor

\_\_\_\_\_  
Name/Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

## **PART III: CONTRACT REQUIREMENTS**

Contract Bond Agreement

Performance Bond

Payment Bond

Insurance

# AGREEMENT

CONTRACT NO: RR-26-9315

(USE INK ONLY)

THIS AGREEMENT, authorized by the Board of Directors to be entered into in duplicate this \_\_\_\_\_ day of \_\_\_\_\_, 2026 by and between THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY (hereinafter referred to as the "AUTHORITY"), and \_\_\_\_\_

- \* a corporation organized and existing under the laws of the State of \_\_\_\_\_ and authorized to do business in Illinois. {Attach Secretary of State certification}
- \* a partnership consisting of
- \* an individual doing business as

(\* DELETE ALL LINES THAT DO NOT APPLY)

with principal office in the City of \_\_\_\_\_, in the State of \_\_\_\_\_ (hereinafter referred to as the "contractor").

## WITNESSETH:

In consideration of the premises and of the mutual covenants herein contained, the parties hereto mutually covenant and agree as follows:

## DESCRIPTION AND SCOPE OF WORK

The contractor shall perform all of the services and furnish all of the transportation, labor, materials, equipment and any other incidentals necessary or required to construct and complete the project described in this contract, also called The Work.

## CONTRACT

The following documents, taken as a whole, constitute the Contract:

1. This executed Agreement and any supplement thereto.
2. The Contract Bonds.
3. The Addenda.
4. The Special Provisions.
5. The Plans.
6. The Tollway Supplemental Specifications.
7. The IDOT Supplemental Specifications and Recurring Special Provisions.
8. The IDOT Standard Specifications for Road and Bridge Construction.
9. The Bid.
10. The Instructions and Information to Bidders.
11. The Advertisement for Bids.

The terms and provisions of each and every one of the above documents are a part of this contract. In the event that any provision in any of the foregoing documents conflicts with any provisions in any other of the contract documents, the provisions in the contract document first above enumerated shall govern over the provisions of any other contract document which follows it.

**CONTRACT NO: RR-26-9315**

**CONTRACT BOND AGREEMENT**

The contractor shall simultaneously herewith furnish and deliver to the Tollway a Performance Bond, agreeing to perform the work in accordance with all of the provisions of the contract, as in said Performance Bond provided, and a Payment Bond, agreeing to pay not less than prevailing wages for the work to be performed in accordance with the contract and the laws of the State of Illinois and agreeing to pay all sums of money due for any labor, materials, apparatus, fixtures or machinery and transportation with respect thereto, as in said Payment Bond provided, each dated the same date as this Agreement, in the forms prescribed by the Tollway, and each in an amount equal to the contract price with a corporate surety or sureties acceptable to the Tollway authorized to do business in the State of Illinois.

The contractor agrees that said Bonds shall be maintained in full force and effect until final acceptance of the work by the Tollway and thereafter, as provided in Article 103.05 of the Tollway Supplemental Specifications. The contractor agrees and will cause the surety to agree to be bound by each and every provision of all of the contract documents.

If any surety upon any bond furnished in connection with this contract becomes unacceptable to the Tollway, or if any such surety fails to furnish reports as to its financial condition from time to time as requested by the Tollway, the contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the Tollway and all persons supplying labor or materials in the prosecution of the work contemplated by this contract.

In the event the surety shall make any assignment for the benefit of creditors or commit any act of bankruptcy, or if it shall be declared bankrupt, or if it shall file a voluntary petition in bankruptcy, or shall in the opinion of the Tollway be insolvent, the contractor agrees forthwith upon request of the Tollway to furnish and maintain other corporate surety with respect to said Bonds satisfactory to the Tollway.

**DEFINITIONS**

As used in this Agreement, the terms set forth shall have the meanings attributed to them in the Tollway Supplemental Specifications for THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY issued by the Tollway.

**TIME OF PERFORMANCE**

The duration of this contract shall commence upon the work commencement date identified in the Notice to Proceed letter and shall continue until July 2,2027, in accordance with the contract book schedule.

**CONTRACT EXPIRATION DATE**

The contract expiration date is one (1) year from the contract completion date. Based on the completion date stated in the contract at the time of award the contract expiration date is July 2,2028

**CONTRACT NO: RR-26-9315**

**PERFORMANCE OF THE WORK**

The contractor shall perform all work under the direct supervision, and to the satisfaction of the Construction Manager . The Construction Manager shall decide all questions which arise as to the quality and acceptability of work performed, manner of performance, rate of progress of the work and interpretation of the specifications, and the Construction Manager's decision shall be final.

Any dispute between the Construction Manager and the contractor with respect to any matter shall be decided by the Chief Engineering Officer of The Tollway and his decision shall be final.

In the event that the quantity of any item of work as given in the bid shall be greater or less than estimated, payment shall be made by the Tollway on the basis of the actual quantity completed at the unit price for such item named in the bid, subject to the provisions of the Article 104.02 of the Tollway Supplemental Specifications.

Notwithstanding anything contained in this contract, all payments to be made pursuant to this contract shall be subject to approval by the Chief Engineering Officer.

**CONSIDERATION**

The Authority shall pay the contractor for the performance of the work, subject to any additions or deductions therein as provided for in the Specifications, in current funds, at the prices for the respective items of work shown in the bid. Payments are to be made to the contractor in accordance with and subject to the provisions of the contract documents.

**ASSIGNMENT**

This contract may not be assigned, transferred in whole or in part by the Vendor without prior written consent of the Illinois Tollway.

**CONTRACT NO: RR-26-9315**

**COVENANT AGAINST CONTINGENT FEES**

The contractor 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 contractor for the purpose of securing business. For breach or violation of this warranty, the Tollway shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

**TERMINATION / CANCELLATION FOR NON-APPROPRIATION OF FUNDS**

This contract is subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation (if such an appropriation is required) to make payments under the terms of the contract. Currently, the Tollway is not required to obtain a yearly appropriation of its funds. However, the Tollway cannot and does not make any representations or warranties concerning future appropriation requirements.

**COMPTROLLER REQUIREMENTS FOR CONTRACTS**

Contractor and any and all subcontractors under this contract agrees to maintain books and records related to the performance of the contract and necessary to support amounts charged to the State under the contract for a minimum of five (5) years from the last action on the contract. Contractor further agrees to cooperate fully with any audit and to make the books and records available to the Auditor General, Chief Procurement Officer, Internal Auditor, Inspector General, and the Purchasing Agency.

The State requires a fee of \$15 to cover expenses related to the administration of the Minority Contractor Opportunity Initiative. Any Contractor awarded a contract under Section 20-10, 20-15, 20-25 or 20-30 of the Illinois Procurement Code (30 ILCS 500) of \$1,000 or more is required to pay a fee of \$15. The Comptroller shall deduct the fee from the first check issued to the Vendor under the contract and deposit the fee in the Comptroller's Administrative Fund.

**FREEDOM OF INFORMATION ACT**

This contract and all related public records maintained by, provided to or required to be provided to the State are subject to the Illinois Freedom of Information Act (FOIA) (50 ILCS 140) notwithstanding any provision to the contrary that may be found in this contract.

**GOVERNING LAW; EXCLUSIVE JURISDICTION**

This agreement, and all the rights and duties of the parties arising from or relating in any way to the subject matter of this agreement or the transaction(s) contemplated by it, shall be governed by, construed and enforced only in accordance with the laws of the United States and the State of Illinois (excluding any conflict of laws provisions that would refer to and apply the substantive laws of another jurisdiction). Any suit or proceeding relating to this Agreement, including arbitration proceedings, shall be brought only in DuPage County, Illinois. ***THE CONTRACTOR CONSENTS TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS LOCATED IN DUPAGE COUNTY, STATE OF ILLINOIS.***

**CONTRACT NO: RR-26-9315  
NOTICE**

Notices or documents to be given or delivered shall be deemed given or delivered if delivered personally or by registered or certified mail to the CONTRACTOR at:

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or to the TOLLWAY at 2700 Ogden Avenue, Downers Grove, Illinois, 60515. Either party may change the place to which notices hereunder may be addressed, by written notice to the other party from time to time or at any time.

Addendum, if any, referred to on Page P-1 hereof, and attached hereto, is a part of this Agreement as if fully set forth hereon.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.\*

Agreed By:

\_\_\_\_\_  
President Date

\_\_\_\_\_  
Printed Name as Signed Above

**ATTEST:**

\_\_\_\_\_  
Secretary (Seal)

\_\_\_\_\_  
Printed Name as Signed Above

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY**

**APPROVED:**

\_\_\_\_\_  
Arnaldo Rivera, Chairman/CEO Date

**APPROVED:**

\_\_\_\_\_  
Cathy R. Williams, Chief Financial Officer Date

**APPROVED:**

\_\_\_\_\_  
Kathleen Pasulka-Brown, General Counsel Date

Approved as to Form and Constitutionality

\_\_\_\_\_  
Assistant Attorney General, State of Illinois Date

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

CONTRACT NO. RR-26-9315

PERFORMANCE BOND

Bond No. \_\_\_\_\_

KNOW ALL PERSONS BY THESE PRESENTS, That we, \_\_\_\_\_,  
(Name of Principal)

- a corporation organized and existing under the laws of the State of \_\_\_\_\_ and authorized to do business in the State of Illinois,
- a limited liability company admitted to transact business in the State of Illinois and in good standing with the State of Illinois,
- a partnership consisting of \_\_\_\_\_,
- an individual doing business as \_\_\_\_\_,  
(“X” ONE AND COMPLETE REMAINING INFORMATION)

as Principal, and \_\_\_\_\_  
(Name of Surety)

a corporation organized and existing under the laws of the State of \_\_\_\_\_ with authority to do business in the State of Illinois, as Surety, are held and firmly bound unto The Illinois State Toll Highway Authority in the penal sum of <Enter contract dollar amount spelled out> Dollars, (\$ <Enter contract dollar amount> ), lawful money of the United States, well and truly to be paid unto said The Illinois State Toll Highway Authority, for the payment to which we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH that whereas, Principal has entered into a written contract with The Illinois State Toll Highway Authority for the work designated as

\_\_\_\_\_  
(Insert Contract Number and Description)

which contract is by reference made a part hereof and is hereinafter referred to as “the Contract”.

NOW, THEREFORE, if Principal promptly and faithfully performs said work in accordance with the provisions of the Contract and any authorized changes in the Contract that are subsequently made during the original term of the Contract and any extensions thereof that may be granted by the Tollway, with or without notice to the Surety, and complies with all the provisions, conditions and requirements of the Contract and any authorized changes in the Contract that are subsequently made, with or without notice to the Surety, then this obligation for Surety’s performance of the Contract shall be void; otherwise it shall remain in full force and effect.

Surety hereby waives notice of any changes in the Contract, including extensions of time for the performance thereof.

IN WITNESS WHEREOF, we have duly executed the foregoing obligation and affixed our seals  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Surety \_\_\_\_\_

Principal \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

By \_\_\_\_\_  
(Seal) Attorney in Fact

By \_\_\_\_\_  
(Signature) (Seal)

\_\_\_\_\_  
(Name & Title)

Agent for  
Surety \_\_\_\_\_

Attest \_\_\_\_\_  
Corporate Secretary

Address \_\_\_\_\_

\_\_\_\_\_

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**(Attach Surety's Power of Attorney)**

**(Attach Notary Certificate  
authenticating Signature of Attorney-In-Fact)**

**(Attach Notary Certificate  
authenticating Signature of Representative of Principal  
if not attested by Corporate Secretary)**

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY

CONTRACT NO. RR-26-9315

PAYMENT BOND

Bond No. \_\_\_\_\_

KNOW ALL PERSONS BY THESE PRESENTS, That we, \_\_\_\_\_,  
(Name of Principal)

- a corporation organized and existing under the laws of the State of \_\_\_\_\_ and authorized to do business in the State of Illinois,
- a limited liability company admitted to transact business in the State of Illinois and in good standing with the State of Illinois,
- a partnership consisting of \_\_\_\_\_,
- an individual doing business as \_\_\_\_\_,

(“X” ONE AND COMPLETE REMAINING INFORMATION)

as Principal, and \_\_\_\_\_  
(Name of Surety)

a corporation organized and existing under the laws of the State of \_\_\_\_\_ with authority to do business in the State of Illinois, as Surety, are held and firmly bound unto The Illinois State Toll Highway Authority in the penal sum of <Enter contract dollar amount spelled out> Dollars, (\$ <Enter contract dollar amount> ), lawful money of the United States, well and truly to be paid unto said The Illinois State Toll Highway Authority, for the payment to which we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH that whereas, Principal has entered into a written contract with The Illinois State Toll Highway Authority for the work designated as

\_\_\_\_\_  
(Insert Contract Number and Description)

which contract is by reference made a part hereof and is hereinafter referred to as “the Contract”.

NOW, THEREFORE, if Principal promptly pays not less than the prevailing wages for the work to be performed in accordance with the Contract and the laws of the State of Illinois, and promptly pays all sums of money due or to become due for any labor, materials, apparatus, fixtures or machinery, and transportation with respect thereto, furnished to said Principal for the purpose of performing said work in accordance with the provisions of the Contract and any authorized changes in the Contract that are subsequently made during the original term of the Contract and any extensions thereof that may be granted by the Tollway, with or without notice to the Surety, then this obligation shall be void; otherwise it shall remain in full force and effect.

Surety hereby waives notice of any changes in the Contract, including extensions of time for the performance thereof.

IN WITNESS WHEREOF, we have duly executed the foregoing obligation and affixed our seals  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Surety \_\_\_\_\_

Principal \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

(Seal) Attorney in Fact

(Signature) (Seal)

(Name & Title)

Agent for  
Surety \_\_\_\_\_

Attest \_\_\_\_\_

Corporate Secretary

Address \_\_\_\_\_

\_\_\_\_\_

---

**(Attach Surety's Power of Attorney)**

**(Attach Notary Certificate  
authenticating Signature of Attorney-In-Fact)**

**(Attach Notary Certificate  
authenticating Signature of Representative of Principal  
if not attested by Corporate Secretary)**