

**GATEWAY DEVELOPMENT COMMISSION**

**REQUEST FOR QUALIFICATIONS  
PALISADES TUNNEL RFQ No. GDC23-004**

**MAY 31, 2023**

**Deadline for Questions/Requests for Clarifications: 2:00 pm, July 17, 2023**

**Deadline for SOQ Submission: 2:00 pm, Sept 13, 2023**

## TABLE OF CONTENTS

<b>1. INTRODUCTION .....</b>	<b>1</b>
1.1 Introduction .....	1
1.2 About the Gateway Program .....	1
1.3 About the Commission and its Partners .....	3
1.4 Definitions; Interpretation .....	4
<b>2. PROJECT DESCRIPTION .....</b>	<b>5</b>
2.1 Project Goals .....	5
2.2 Project Description .....	5
2.3 Federal Funding .....	7
2.4 NEPA Process Status .....	7
2.5 Reference Information Documents; Virtual Data Room .....	7
<b>3. PROCUREMENT OVERVIEW.....</b>	<b>8</b>
3.1 Procurement Process.....	8
3.2 Procurement Schedule.....	8
3.3 RFQ Phase .....	8
3.4 Anticipated RFP and Project Contract Terms .....	9
<b>4. COMMUNICATIONS PROTOCOLS.....</b>	<b>11</b>
4.1 Procurement Portal and Communications with the Commission; RFQ Information.....	11
4.2 Commission Representatives.....	11
4.3 Other Rules for Communications During the Project Procurement .....	12
4.4 Public Records Access and Access to Personal Information Policy .....	13
4.5 Confidential Respondent Information .....	13
<b>5. RESPONDENT TEAM REQUIREMENTS .....</b>	<b>15</b>
5.1 Respondent Organization.....	15
5.2 Non-exclusivity of Certain Respondent Team Members .....	15
5.3 Participation on More than One Respondent Team.....	15
5.4 Organizational Conflicts of Interest.....	16
5.5 Changes in Respondent Organization.....	16
5.6 Code of Conduct .....	17
5.7 Ethics and Non-Collusion .....	17
<b>6. COMMISSION'S RIGHTS AND DISCLAIMERS.....</b>	<b>19</b>
6.1 Commission's Reserved Rights.....	19
6.2 Commission's Disclaimers .....	20
<b>7. PROTESTS .....</b>	<b>21</b>
<b>8. SUBMISSION REQUIREMENTS FOR REGISTRATION SUBMITTALS AND SOQS .....</b>	<b>23</b>
8.1 Required Content and Organization for Registration Submittals.....	23
8.2 Required Content and Organization for SOQS .....	23

8.3	Formatting and Other General Requirements for Registration Submittals and SOQs .....	24
8.4	Registration Submittals and SOQ Delivery .....	25
8.5	Registration Submittals and SOQs Become Property of the Commission .....	25
<b>9.</b>	<b>SOQ EVALUATION .....</b>	<b>26</b>
9.1	Evaluation Process Overview .....	26
9.2	Evaluation Criteria.....	26

## **Figures**

Figure 1: Hudson Tunnel Project Overview .....	3
Figure 2: Palisades Tunnel.....	6

## **APPENDICES**

<b>APPENDIX 1 DEFINITIONS .....</b>	<b>33</b>
<b>APPENDIX 2 PROCUREMENT SCHEDULE.....</b>	<b>38</b>
<b>APPENDIX 3 PROJECT DESCRIPTION.....</b>	<b>39</b>
<b>APPENDIX 4 ANTICIPATED RFP AND PROJECT CONTRACT TERMS .....</b>	<b>42</b>
<b>APPENDIX 5 REGISTRATION SUBMITTAL CHECKLIST .....</b>	<b>51</b>
<b>APPENDIX 6 REGISTRATION SUBMITTALS .....</b>	<b>52</b>
<b>APPENDIX 7 SOQ CHECKLIST.....</b>	<b>55</b>
<b>APPENDIX 8 SOQ VOLUME 1 – ADMINISTRATIVE SUBMITTALS .....</b>	<b>58</b>
<b>APPENDIX 9 SOQ VOLUME 2 – TECHNICAL SUBMITTALS.....</b>	<b>59</b>
<b>APPENDIX 10 SOQ VOLUME 4 – FINANCIAL SUBMITTALS .....</b>	<b>68</b>
<b>APPENDIX 11 CONFLICTED PERSONS.....</b>	<b>71</b>
<b>APPENDIX 12 PROJECT STAKEHOLDERS.....</b>	<b>72</b>

## **FORMS**

### **General**

FORM QF RFQ QUESTION FORM .....	74
---------------------------------	----

### **Administrative Submittals Forms**

FORM A-1 RESPONDENT TEAM SUMMARY .....	75
FORM A-2 RESPONDENT MEMBER BUSINESS INFORMATION .....	77
FORM A-3 SOQ SUBMITTAL LETTER.....	79
FORM A-4 CERTIFICATION AND LEGAL QUALIFICATIONS.....	82
FORM A-5 AGREEMENT ON TERMS OF DISCUSSION .....	85

### **Technical Submittals Forms**

FORM T-1 PROJECT DESCRIPTION .....	86
FORM T-2 SUBCONTRACTOR INFORMATION .....	88
FORM T-3 KEY PERSONNEL EXPERIENCE .....	90
FORM T-4 PAST PERFORMANCE.....	92
FORM T-5 SAFETY QUESTIONNAIRE.....	95
FORM T-6 DBE PERFORMANCE RECORD.....	99

### **Financial Submittals Forms**

FORM F-1 FINANCIAL OFFICER'S CERTIFICATE.....	101
FORM F-2 FINANCIAL STATEMENTS TEMPLATE .....	109

## 1. Introduction

### 1.1 Introduction

This Request for Qualifications (as may be amended by Addenda, this “**RFQ**”) is issued by the Gateway Development Commission (the “**Commission**”) to solicit Statements of Qualifications (each, an “**SOQ**”) from entities interested in constructing the Palisades Tunnel (“**1A**” or the “**Project**”), which the Commission is procuring using a design-bid-build delivery method. Each entity or team of entities that is planning to submit, or submits, an SOQ is hereinafter referred to as a “**Respondent**”.

The issuance of this RFQ commences the Commission’s procurement process to select a single contractor (the “**Contractor**”) that will perform construction and other related work for the Project, which is a key element of the Gateway Program described in Section 1.2. This RFQ is the first step of a two-step, Best Value procurement process. More detailed descriptions of the Project, the Contractor’s anticipated scope, and other Program elements are provided in Section 2 and Appendix 3 (Project Description).

Following the Commission’s shortlisting of Respondents (“**Shortlisted Respondents**”) in accordance with this RFQ, each Respondent will be notified officially in writing via email whether it has been selected for the shortlist.

The Commission will then issue a Request for Proposals for the Project (the “**RFP**”) to the Shortlisted Respondents that will provide more information about the Project and the procurement process and solicit Proposals. The Commission expects to identify a successful Proposer and enter into a fixed-price construction contract for the Project (the “**Project Contract**”) (a form of which will be issued to Proposers with the RFP) with the Contractor within the anticipated timeframes listed in the Procurement Schedule.

### 1.2 About the Gateway Program

Since November 2015, the National Railroad Passenger Corporation (“**Amtrak**”), The Port Authority of New York & New Jersey (“**PANYNJ**”), New Jersey Transit Corporation (“**NJ TRANSIT**”) and the States of New York and New Jersey, (collectively the “**Project Partners**”) have been coordinating efforts with U.S. Department of Transportation (“**USDOT**”) to plan the Gateway Program (“**the Program**”).

In July 2019, the Gateway Development Commission Act was enacted by the States of New York and New Jersey creating a public and government sponsored authority established by both states, which shall be deemed to be acting in the public interest and exercising essential government functions in taking action hereunder.

The Commission is overseen by a seven-member Board of Commissioners (the “**GDC Board**”), with three Commissioners from the State of New York, three Commissioners from the State of New Jersey, and one Commissioner directly appointed by Amtrak.

The Gateway Program (the “**Program**”) is a multi-billion dollar set of passenger railroad projects on the Northeast Corridor (the “**NEC**”), between Newark Penn Station in Newark, New Jersey and Pennsylvania Station in New York, New York (“**PSNY**”).

The Program is urgently needed to address travel time reliability and asset condition concerns. While the NEC is predominantly a four-track railroad, within the Program area it narrows to a two-track railroad, creating a bottleneck at the epicenter of the NEC. Furthermore, the existing two-track rail lines are used by both Amtrak and NJ TRANSIT for approximately 450 weekday

passenger trains and have reached full capacity. The rail lines also use the North River Tunnel to cross under the Hudson River; built over 100 years ago, these tunnels sustained major damage from flooding during Superstorm Sandy in 2012.

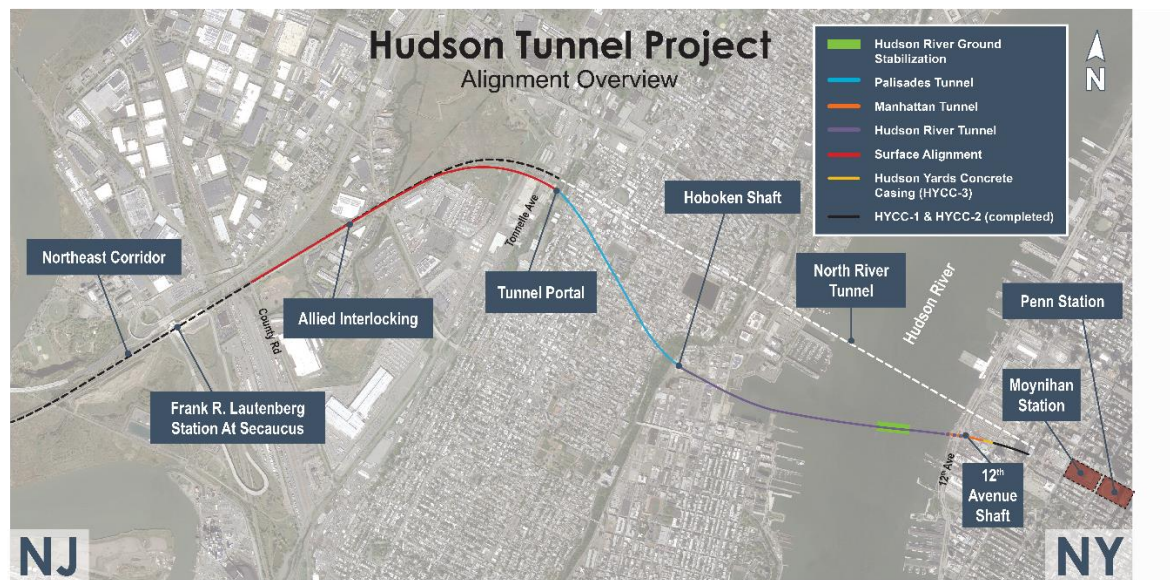
The Program will replace and repair critical infrastructure and ultimately (approximately) double the number of passenger trains that run under the Hudson River to meet current and near-future demand for growth in service. The Program will improve the function and reliability of one of the busiest, strategically critical passenger railroad corridors in the world and address one of America's most urgent transportation needs. These improvements will be accomplished through (i) the repair and rebuilding of existing infrastructure, including the existing North River Tunnel, and (ii) by creating additional tunnel, track, and station capacity. The Program's individual projects are at various stages of development, with some undergoing environmental analysis, some in design and others ready for construction.

The Program's initial phase is focused on improving resiliency and reliability along the NEC through the following projects:

- Portal North Bridge Project: Led by NJ TRANSIT, this project is not within the Project scope and involves replacing the existing Portal Bridge with a new, fixed, high-level bridge; and
- Hudson Tunnel Project: Led by the Commission, the project involves improving the operating reliability and creating tunnel resiliency and redundancy, which is essential to reducing the risk associated with dependency on the two century-old tunnels of the North River Tunnel. The Hudson Tunnel Project includes: (1) the construction of two parallel rail tunnels, with a single track contained within each tunnel, from New Jersey to Manhattan, NY (the "Hudson Tunnel") that will directly serve PSNY, including a 2-track surface connecting section between the existing Northeast Corridor track alignment in Secaucus, NJ and the start of the new tunnel in North Bergen, NJ, consisting of retained fill, bridge and viaduct structures; (2) the rehabilitation and modernization of the existing North River Tunnel, which will commence after the Hudson Tunnel is commissioned; and (3) the completion of the third section of the concrete casing beneath Hudson Yards on the west side of Manhattan through the western portion of the Long Island Rail Road's West Side Storage Yard (the "**Hudson Yards Concrete Casing Section 3**" or "**HYCC-3**").

This Project is a package of the larger Hudson Tunnel Project.

**Figure 1: Hudson Tunnel Project Overview<sup>1</sup>**



## 1.3 About the Commission and its Partners

### 1.3.1 Authority of the Commission

In July 2019, the States of New York and New Jersey created the Commission through the enactment of the Gateway Development Commission Act (2019 N.Y. Sess. Laws ch. 108 and 2019 N.J. Sess. Law Serv. ch. 195) (together, the “**GDC Act**”). The Commission is a government-sponsored authority that is empowered to facilitate and coordinate activities and encourage the actions of others to effectuate the Program. It is governed by the GDC Board.

The Commission will be the counterparty to the Project Contract and responsible for oversight of the Project and other elements of the Program.

The Commission is authorized by the GDC Act to:

- Receive Federal grants;
- Participate in Federal loan programs;
- Become a NEPA project sponsor and apply for, obtain and issue, as applicable, other permits required for the Program;
- Facilitate the Program and act as a coordinating agency for cooperation among the Project Partners;
- Procure, enter into, execute and deliver contracts and agreements;
- Own land and other assets required for the Program; and
- Issue or guarantee bonds, notes, or other evidence of indebtedness.

For additional information about the Commission, visit its website: [www.gatewayprogram.org](http://www.gatewayprogram.org) (the “**Commission Website**”). The Commission is responsible for the development, design, and construction of the Project.

<sup>1</sup> All figures provided are for illustrative purposes only.

### **1.3.2 Delivering the Project**

The Commission and its Partners understand that expeditious decision-making and efficient contract administration and Project oversight will be critical to the on-time and on-budget delivery of the Project. The Commission's role on the Project will be to facilitate successful Project delivery. To this end, the Commission has executed a Project Development Agreement ("**PDA**") with the States of New York and New Jersey and Amtrak, which provides clear governance and decision-making in project delivery.

### **1.3.3 Disadvantaged Business Enterprise (DBE)**

The Commission is committed to carrying out all of the DBE requirements of Title 49, Code of Federal Regulations Part 26, as amended from time to time. The Commission is committed to ensuring nondiscrimination in the award and administration of all its contracts. This project will be subject to DBE requirements in accordance with applicable regulatory requirements. DBE participation goals for the Project will be included in the RFP, and compliance with the Commission's requirements with respect to participation by DBEs and small businesses will be a critical obligation of the Contractor under the Project Contract. For the purposes of this RFQ, a record/examples of successful compliance on past projects with subcontractor participation goals and requirements will be considered.

## **1.4 Definitions; Interpretation**

### **1.4.1 Definitions**

Definitions and references for the capitalized terms, abbreviations, and acronyms used in this RFQ are provided in Appendix 1 (Definitions).

### **1.4.2 Interpretation**

In this RFQ, words in the singular include the plural and vice versa, and words in one gender include all genders. The words "include", "includes" or "including" means "include without limitation", "includes without limitation" or "including without limitation", respectively and shall not be deemed to be an exhaustive list. Unless otherwise stated, all references to dollar amounts in this RFQ are to the lawful currency of the United States of America. Unless otherwise stated, cross-references to "Section(s)" refer to the numbered sections of the body of this RFQ and cross references to "Appendix(ices)" and "Form(s)" refer to the Appendices and Forms attached hereto. In this RFQ, the word "discretion" with respect to any Person means the sole and absolute discretion of such Person.

### **1.4.3 Times**

All times in this RFQ are for local Eastern Time (ET) in New York, New York.



## 2. Project Description

### 2.1 Project Goals

The Commission intends to enter into a Project Contract with a Contractor where both entities are aligned in achieving the Project goals listed below (collectively, the “**Project Goals**”). This Section 2.1 is not intended to include an exhaustive list of the Commission’s or the Project Partners’ goals for the Project or the Program.

- (a) Innovation – Promote and implement innovative means and methods to improve performance for the Project, including enhanced quality and long-term structural performance, and reduced cost and schedule.
- (b) Safety – Maintain a safe environment at all times through implementation of a robust safety program.
- (c) Schedule – Expedite the delivery of the Project and complete construction for the Project by Spring of 2027.
- (d) Environment – Avoid or minimize construction-related impacts to the environment, utilities, property, and community, in accordance with RFP.
- (e) Quality – Provide construction in accordance with Contract Specifications and quality assurance and quality control programs.
- (f) Stakeholder Coordination and Communications – Facilitate effective coordination and interface among Contractor’s Project team, the Commission, and all other Project Stakeholders.
- (g) Diversity and Inclusion – Facilitate participation by DBEs and effective management of staff and labor.
- (h) Sustainability – Optimize Project approach and material usage to achieve a balance of environment, economy and equity.
- (i) Risk Mitigation – Mitigate risks to the Project during construction through implementation of a comprehensive Risk Management Plan.
- (j) Best Value – Select a Contractor who will deliver the Project for the best value, or greatest overall benefit to the Commission, determined based on its proposed price, schedule and construction approach as set forth in the RFP.

### 2.2 Project Description

The Palisades Tunnel, which consists of two separate tunnels<sup>2</sup>, each approximately 5,100-feet long and with an inside diameter of 25 feet 2 inches, is to be excavated by Tunnel Boring Machines (“**TBMs**”) primarily in the Palisades Diabase with a section at the east end of the tunnel near the Hoboken Shaft, to be excavated in the Stockton Formation and Lockatong Formation. This latter tunnel portion will be excavated through interlayered sedimentary rock types that include sandstone and interlayered argillite, shale, and siltstone. The Respondent will provide two new TBMs to meet the required Project deadlines (which will be described in the RFP). The Palisades Tunnel TBMs will need to be capable of excavating hard rock.

---

<sup>2</sup> The two separate tunnels are also referred to as tubes in the Hudson Tunnel Project Final Environmental Impact Statement and Record of Decision.

For the Palisades Tunnel, a precast concrete segmental tunnel lining system is required.

Six cross passages are required between the tunnel portal located in North Bergen, NJ and the Hoboken Shaft to comply with fire-life-safety of National Fire Protection Code 130 (“**NFPA-130**”). These cross passages are expected to be excavated between the running two separate tunnels of the Palisades Tunnel by conventional drill and blast techniques.

Major materials handling, such as spoil removal, must be performed through the Palisades Tunnel exiting at the aforementioned tunnel portal below Paterson Plank Road in North Bergen, NJ and temporarily stored at the Tonnelle Avenue staging area muck storage compound located on the westside of Tonnelle Avenue, as required by the Hudson Tunnel Project Record of Decision (“**ROD**”).

The Hoboken Shaft is approximately 121 feet in diameter and approximately 120 feet in depth. A concrete diaphragm (slurry) wall is to be constructed by the slurry trench method with the wall socketed into rock. The rock portion of the shaft will use drill and blast methods and shaft support will consist of patterned rock dowels and fiber reinforced shotcrete. A rock mass grouting program is required at the toe of the slurry walls, around the entire perimeter of the shaft and within the entire shaft invert to reduce water inflows. The final lining of the Hoboken Shaft is not included in the Project scope.

See [Appendix 3 \(Project Description\)](#) for more detailed information regarding the Project, the contemplated Contractor’s scope and responsibilities, future contract packages contemplated to be procured by the Commission to complete the Hudson Tunnel Project, and status of various Project elements.

**Figure 2: Palisades Tunnel<sup>3</sup>**



<sup>3</sup> All figures provided are for illustrative purposes only.

## 2.3 Federal Funding

The Project Contract may be funded, in whole or in part, with Federal funds and financial assistance, which may include the Federal Transit Administration (“**FTA**”), Federal Railroad Administration (“**FRA**”), and/or Amtrak funds and programs. To ensure that the Project remains eligible for Federal funds and programs, the RFP and Project Contract will conform to requirements of applicable Federal laws and regulations, funding agreements, and policies. Under the terms of the Project Contract, the Contractor will be required to comply with all applicable laws and Federal requirements. More information will be provided in the RFP. The Commission reserves the right to modify the procurement process and documents at any time to address any concerns, conditions, or requirements of Federal agencies, including FTA, FRA, and Amtrak.

## 2.4 NEPA Process Status

Consistent with the National Environmental Policy Act (“**NEPA**”), FRA published a Notice of Intent to prepare an Environmental Impact Statement (“**EIS**”) in May 2016. FRA was the Lead Federal Agency and **PANYNJ** was the project sponsor for the purposes of the Final Environmental Impact Statement (“**FEIS**”). FTA and the U.S. Army Corps of Engineers were cooperating agencies involved in the environmental review. A Draft EIS, prepared by FRA and NJ TRANSIT, which covered the construction of the Hudson Tunnel and the rehabilitation of the existing North River Tunnel, was published for review and comment in July 2017. On May 28, 2021, FRA published the FEIS. At that time FRA and FTA jointly issued a positive ROD to complete the NEPA process. A ROD is also required to be issued from FTA to satisfy FTA Capital Investment Grant (“**CIG**”) Program requirements. On October 21, 2022, the GDC formally notified FTA and FRA that it assumed the roles of HTP CIG Grant Applicant and NEPA project sponsor.

## 2.5 Reference Information Documents; Virtual Data Room

Results of certain technical studies, preliminary designs, and investigations undertaken with respect to the Project (each, a “**Reference Information Document**” or “**RID**”) are available for informational purposes. Unless explicitly stated otherwise in a Contract Document, information or reports comprising the RIDs may not be relied upon by any Respondent or Proposer, as applicable, and will not form a part of the RFP, any Contract Document, or any agreement between the Commission and the Contractor. Neither the Commission nor any of the Project Partners makes any representation, warranty or guarantee as to, and shall not be responsible for, the accuracy, completeness, or pertinence of the RIDs. Neither the Commission nor any Project Partner shall be responsible for any conclusions drawn by any Person from any RID.

The Commission previously made limited RIDs available to qualified organizations through the Hudson Tunnel Pre-Procurement Virtual Data Room. This Virtual Data Room has been replaced by the Project’s Virtual Data Room (“**VDR**”), where additional RIDs will be made available to Respondents who provide the VDR registration information required by the Procurement Portal.

The VDR provides Respondents an opportunity to review existing geotechnical data and other relevant information about the Project. Providing Respondents with this information is intended to allow all parties, among other things, to better understand the scope, scale, and complexities of the Project.

### 3. Procurement Overview

#### 3.1 Procurement Process

The Commission intends to procure the Contractor for the Project using the following two-phase process:

- (a) Phase 1 - RFQ: The issuance of this RFQ commences the qualification phase and is intended to solicit submissions of SOQs from Respondents. As described in Section 9.1, the Commission will evaluate and score SOQs to identify the Respondents that are financially capable and the most technically qualified to deliver the Project. Only the Shortlisted Respondents will be eligible to submit a Proposal in response to the RFP. The Commission anticipates shortlisting up to five of the most highly qualified Respondents that are deemed within the competitive range to participate in the RFP phase. The Commission shall establish the criteria for the competitive range prior to issuance of this RFQ.

At the discretion of the Commission, upon request by a prospective Respondent to [procurement@gatewayprogram.org](mailto:procurement@gatewayprogram.org), one or more commercially confidential collaborative dialogue meetings may be held. The purpose of these meetings is to offer Respondents a platform where they can openly discuss concerns related to confidential or proprietary matters.

Each Respondent will be notified officially in writing via email whether it has been selected for the shortlist.

- (b) Phase 2 - RFP: The issuance of the RFP to the Shortlisted Respondents (referred to as “**Proposers**” during the RFP Phase) commences the competitive proposal phase and is intended to solicit Proposals for the Project and result in the identification of the successful Proposer that will become the Contractor. The RFP Phase ends upon the execution of the Project Contract by the Commission and the Contractor.

The RFP will specify the requirements for submission of a Technical Proposal and a Financial Proposal from each Proposer. One or more commercially confidential collaborative dialogue meetings may be held with Proposers to discuss commercial, legal, and technical issues.

Each Proposal will be evaluated to determine which Proposal is most advantageous to the Commission by evaluating and comparing factors in addition to price (“**Best Value**”). The RFP will provide further information about the factors to be compared.

#### 3.2 Procurement Schedule

The activities and deadlines involved in the Project procurement will occur on the dates and times listed in Appendix 2 (Procurement Schedule) (the “**Procurement Schedule**”). All dates and times listed in the Procurement Schedule are subject to change at the Commission’s discretion. Any change to the Procurement Schedule will be issued through an Addendum.

#### 3.3 RFQ Phase

##### 3.3.1 RFQ Addenda

The Commission reserves the right, in its discretion, to revise, modify, supplement, or otherwise amend this RFQ (“**Addendum**”). Any such amendment will be implemented through issuance of an Addendum to this RFQ.

Each Respondent shall acknowledge in its SOQ Submittal Letter (Form A-3) receipt of all Addenda. In case any Respondent fails to conform to these instructions, the Respondent's SOQ will nevertheless be construed as though this communication had been so acknowledged.

### **3.3.2 Questions about the RFQ**

Respondents may submit questions and requests for clarifications regarding this RFQ in accordance with this Section 3.3.2. Responses provided by the Commission will be issued as an Addendum.

All questions and requests for clarification must be submitted by an authorized representative of the Respondent on behalf of its Respondent team by the applicable deadline in the Procurement Schedule. Respondents' questions and requests for clarifications must be submitted in the form of, and include all information required by, the RFQ Question Form (Form QF) and submitted to [procurement@gatewayprogram.org](mailto:procurement@gatewayprogram.org) as a Microsoft Word document. The Commission will not consider or respond to any questions or requests regarding this RFQ if submitted in any other manner. For avoidance of doubt, no hard copy, telephone, or oral questions or requests will be considered.

The Commission will post any responses to questions or requests for clarification regarding this RFQ on the Procurement Portal, as further described in Section 4.1, below, prior to the deadline set forth in the Procurement Schedule. The Commission may rephrase, consolidate, or otherwise modify questions and requests, in its discretion, and may provide clarifications or amendments independent of Respondents' questions. Respondents must prepare questions and requests for clarifications on the RFQ Question Form (Form QF) in a manner that does not reveal their identities or the identity of any team member and that excludes any Confidential Respondent Information as described in Section 4.5.

Respondents may submit questions marked "CONFIDENTIAL" using RFQ Question Form (Form QF) separate from the RFQ Question Form (Form QF) used for other questions and in accordance with the submission requirements outlined in Section 4.5, including the separate signed statement from the Respondent or its relevant team member explaining its assessment. Before providing a response, the Commission will determine whether or not the question contains proprietary information. Should the Commission determine that the question does not contain proprietary information, the Respondent who submitted the question will be notified that the question is not considered "Confidential". The Respondent will then have the opportunity to withdraw the question or request that the Commission provide a response to the question in which case the question and response will be provided to all Respondents. If the Commission determines that the question does contain proprietary information, then the Commission will provide a response only to the Respondent who submitted the question. The Commission may choose to provide this response verbally to that Respondent.

### **3.4 Anticipated RFP and Project Contract Terms**

Following the RFQ Phase, the Commission contemplates issuing draft version(s) of the RFP to Proposers for review and comment on a confidential basis prior to issuing the final RFP. The RFP will be accompanied by a form of the Project Contract and the design-bid-build Technical Specifications. The anticipated schedule for the issuance of the draft and final RFP and Proposal deadlines is set forth in the Procurement Schedule. The Commission reserves the right to issue a final RFP without sharing a draft RFP with the Shortlisted Respondents in advance.

The RFP will be the only document that Proposers may rely on with respect to the RFP Phase, preparation of Proposals, and the Commission's rights and obligations related to the RFP Phase. However, the Commission wishes to provide Respondents an early opportunity to consider the

information about the RFP and the Project Contract set forth in Appendix 4 (Anticipated RFP and Project Contract Terms). All information in Appendix 4 (Anticipated RFP and Project Contract Terms) is preliminary and reflects terms anticipated only at this time; all terms remain subject to revision during the RFP Phase.

## **4. Communications Protocols**

### **4.1 Procurement Portal and Communications with the Commission; RFQ Information**

#### **4.1.1 Procurement Portal and Communications with the Commission**

The Commission is establishing a web-based SharePoint portal to be used by Respondents, Proposers, and the Commission for communications during the Project procurement process (the "Procurement Portal"). In order to provide electronic access to the Procurement Portal, interested Respondents must indicate a non-binding Expression of Interest in responding to this RFQ.

The Commission will accept, through an email address established at [procurement@gatewayprogram.org](mailto:procurement@gatewayprogram.org), Expressions of Interest in responding to this RFQ. Those potential Respondents with interest in participating in the RFQ process should indicate interest in this RFQ by emailing that email address with the following information: the Respondent's legal name, corporate structure, address, telephone number and primary contact name, title, telephone number and email address.

An Expression of Interest should be emailed to [procurement@gatewayprogram.org](mailto:procurement@gatewayprogram.org) by June 14, 2023 at 2:00pm in order to guarantee timely access to materials and to provide sufficient administrative opportunity to grant Procurement Portal access. Expressions of Interest after June 14, 2023, at 2:00pm will be accepted, but the Commission is not responsible for any delays after this time associated with Procurement Portal access.

Unless otherwise expressly stated herein, whenever this RFQ requires or provides for any issuance of documents, notice, approval, consent, acceptance, determination, decision, certificate, order, waiver, explanation, policy, information or the like, whether by a Respondent or the Commission, the same and any request therefor must be in writing (unless otherwise waived in writing by the Commission Representative) and transmitted through the Procurement Portal or through email at [procurement@gatewayprogram.org](mailto:procurement@gatewayprogram.org).

Any information or formal notice regarding the Project to Respondents will be issued by the Commission on Commission or Project letterhead. Any Commission correspondence will be in writing and signed by a Commission Representative.

#### **4.1.2 Respondents' Responsibility Regarding RFQ and Procurement Information**

This RFQ, any Addenda hereto, RIDs, any responses from the Commission to questions and requests for clarification regarding this RFQ, and any notices or other written communications issued by the Commission to all Respondents shall be available solely at the Procurement Portal.

Each Respondent is solely responsible for ensuring that it has all the information issued by the Commission on the Procurement Portal and all other information it may need to prepare and submit an SOQ in compliance with this RFQ.

## **4.2 Commission Representatives**

The Commission will utilize email as the principal means of communication for the procurement of the Project. Authorized personnel at the Commission (each, a "**Commission Representative**") will communicate through the following email address: [procurement@gatewayprogram.org](mailto:procurement@gatewayprogram.org). All communications from Respondents or other persons to the Commission regarding this RFQ, including any questions or requests for clarification, must be submitted in writing to the Commission Representatives through the email address established.

### 4.3 Other Rules for Communications During the Project Procurement

To promote a fair and unbiased procurement process for the Project, the rules set forth below in this Section 4.3 for communications shall apply to the entire procurement, commencing with the issuance of this RFQ and continuing until the earliest of (i) execution of the Project Contract, (ii) rejection of all Proposals by the Commission, or (iii) cancellation of the procurement. “Communication” including but not limited to face-to-face, telephone, facsimile, text, e-mail or written or oral communication, directly or indirectly by an employee, consultant, agent, representative, promoter, or advocate of any Person.

Any communications determined to be prohibited or improper, at the discretion of the Commission, may result in disqualification of a Respondent or Proposer, as applicable, from the entire procurement process for the Project.

- (a) Respondents shall correspond with the Commission regarding the RFQ only through the Commission Representative specified in Section 4.2 of this RFQ.
- (b) The Commission will direct any Respondent-specific communications to the Respondent Representative identified by such Respondent in its Respondent Team Summary (Form A-1).
- (c) All communications with the Commission regarding this RFQ or the procurement process for the Project must be in the English language.
- (d) All communications from Respondents to the Commission Representatives must clearly reference “**Palisades Tunnel – RFQ No. GDC23-004**” in the subject line or on the first page, as applicable.
- (e) No Respondent or representative thereof may communicate regarding the RFQ, RFP or the procurement described herein with any Commission or Project Partner employees, directors, officers, agents, representatives, contractors or consultants that are involved with the Project or the Program (including those listed on Appendix 11 (Conflicted Persons)), except for communications with consultants who have completed their services for the Program and have been released by the applicable agency(-ies) or communications expressly permitted by the RFQ or RFP, or except as approved in writing in advance by a Commission Representative. The foregoing restriction shall not preclude or restrict communications regarding matters unrelated to the RFQ, RFP or the procurement, or limit participation in public meetings or any public or Respondent workshop related to this RFQ or the RFP.
- (f) After submission of Registration Submittals or SOQs, as applicable, no Respondent or Shortlisted Respondent, as applicable, nor any of its team members may communicate with another Respondent or its team members with regard to this RFQ or either team’s SOQ or potential Proposal; *provided, however*, that subcontractors that are shared between two or more Respondents may communicate with their respective team members if those Respondents establish commercially reasonable protocols to ensure that the subcontractor will not act as a conduit of information between the Respondents. Notwithstanding the above, contact among Respondents is permitted during informational meetings sponsored by the Commission.
- (g) The Commission will not be responsible for, and Respondents may not rely on, any oral exchange or any other information or exchange that occurs outside the official processes specified herein.



- (h) Neither a Respondent nor its agents, including any lobbyists, may contact any Project Stakeholders regarding the Project or the Program, including any of their respective employees, representatives, agents, elected or appointed officials, consultants, or advisors, except as specifically approved in advance by the Commission in writing. All requests for such considerations of establishing contact with the aforementioned persons must first be submitted in writing to the Commission. Failure to comply with this restriction at any time during the procurement process will result in disqualification of the Respondent or Proposer, as applicable.

#### **4.4 Public Records Access and Access to Personal Information Policy**

The Commission has adopted a Public Records Access and Access to Personal Information Policy, located on the Commission's website at: [www.gatewayprogram.org](http://www.gatewayprogram.org) (the "**Public Records Access Policy**").

#### **4.5 Confidential Respondent Information**

If a Respondent submits any information that it deems to be (a) trade secrets or proprietary commercial or financial information, privileged or confidential, public disclosure of which would cause competitive harm, or (b) information otherwise protected from disclosure under the Public Records Access Policy or applicable law or regulation (any information described in the foregoing clauses (a) and (b), "**Confidential Respondent Information**"), whether in its SOQ, questions, request for clarification or in any other communications to the Commission, the Respondent shall conspicuously mark such information "CONFIDENTIAL" on each affected page. Blanket designations that do not specifically identify the confidential information shall not be acceptable to the Commission and may be cause for the Commission to treat the entire document as public information.

In addition, any information deemed to be Confidential Respondent Information shall be accompanied by a separate signed statement from the Respondent or its relevant team member explaining its assessment. Such explanatory statements are intended to provide input to the Commission as to the confidential nature of a Respondent's information and will be afforded appropriate consideration in the event the Commission receives a request for disclosure of such information. In no event, however, shall any such explanatory statement or other designation of Confidential Respondent Information by Respondent be binding on the Commission, be determinative of any issue relating to confidentiality, or override or modify the provisions of the Public Records Access Policy or any applicable law or regulation or the Commission's responsibilities thereunder.

If the Commission receives a request for public disclosure of information marked by a Respondent as "CONFIDENTIAL", the Commission will use reasonable efforts to notify the Respondent of the request and to give such Respondent a reasonable opportunity to assert, in writing and at its sole expense, its claim for protection of the information from disclosure under applicable law. In the event of any proceeding or litigation concerning the disclosure of any Respondent information, the Respondent shall be responsible for prosecuting or defending any action concerning the materials at its sole expense and risk; provided, however, that the Commission reserves the right, in its discretion, to intervene or participate in the litigation in such manner as it deems necessary or desirable. All reasonable costs and fees (including attorneys' fees and costs) incurred by the Commission in connection with any litigation, proceeding, or request for disclosure shall be reimbursed and paid by the Respondent whose information is the subject thereof.

In no event will the Commission or any of its employees, commissioners, officers, agents, representatives, or consultants be liable to a Respondent, Respondent team member or any other

Person as a result of the disclosure of all or any portion of information submitted in response to this RFQ, including materials marked "CONFIDENTIAL," whether the disclosure is deemed required by the Public Records Access Policy or applicable law or regulation, or occurs through inadvertence, mistake or negligence on the part of the Commission or its Commissioner, employees, officers, agents, representatives, or consultants.

## 5. Respondent Team Requirements

### 5.1 Respondent Organization

The Commission expects that each Respondent will be comprised of a team of entities. Each Respondent must identify, at a minimum, the following team members in its SOQ:

- Contractor and any Guarantors of the Contractor entities;
- Each Principal Participant or Specialty Subcontractor;
- Each other subcontractor identified as of the SOQ deadline; and
- Individuals committed to serve as the Key Personnel.

The RFP will allow Proposers to propose a special-purpose entity or an unincorporated joint-venture to be the Contractor, subject to approval by the Commission. Special-purpose entities and joint ventures will be subject to legal and financial due diligence, including the Commission's review of proposed forms of company operating agreements, joint venture agreements, and similar corporate documents. If the Contractor will be an unincorporated joint venture, each joint venture member will be required to execute the Project Contract and accept joint and several liability for the Contractor's obligations thereunder.

If the entity proposed to be the Contractor is not formed as contemplated by the successful Proposer's Proposal or fails to comply with the RFP requirements relating to the Contractor entity status at the time of execution of the Project Contract, then the entity or entities that signed the successful Proposer's Proposal must enter into the Project Contract or provide a substitute Contractor entity acceptable to the Commission.

### 5.2 Non-exclusivity of Certain Respondent Team Members

The Commission recognizes that the market for companies able to perform the certain specialty services that may be required for the delivery of the Project may be relatively small (each, a **"Specialty Service"**). As such, Specialty Services, if any, will be disclosed in the RFP.

As a result, to ensure a fair procurement process, Respondents (including Contractor entities) may not require any exclusive teaming arrangements from any entity whose role on the Respondent team will be to provide a Specialty Service (a **"Specialty Subcontractor"**). However, it is within a Specialty Subcontractor's discretion to elect to participate on one or more Respondent teams.

### 5.3 Participation on More than One Respondent Team

To promote a fair and competitive procurement process for the Project, none of the Principal Participants, their respective Affiliates or any Key Personnel on a Respondent team may participate in any capacity on another Respondent team during this procurement. If any Principal Participant, Affiliate or Key Personnel fails to comply with this prohibition, the Commission (in its discretion) may disqualify from further participation in this procurement such Principal Participant, Affiliate, Key Personnel, or any of the Respondent teams on which it is participating.

If a Respondent is not shortlisted during this RFQ Phase, the members of each non-shortlisted Respondent are thereafter free to participate on Shortlisted Respondent teams, subject to the requirements of Sections 5.4 and 5.5.

## 5.4 Organizational Conflicts of Interest

If a Respondent (including Principal Participants) or any of its team member entities, including any employee, agent or consultant of the Respondent or member entity, has a potential conflict of interest or circumstances that may give the appearance of a potential conflict of interest, the Respondent shall submit as promptly as possible a statement indicating the nature of the conflict. The Commission reserves the right to disqualify a Respondent in its entirety or any member of the Respondent team if, in the Commission's discretion, any interest disclosed from any source could create a conflict of interest or give the appearance of a conflict of interest. The Commission's determination regarding any questions of conflict of interest shall be final.

The following Persons are considered to have an actual or potential conflict of interest and, except otherwise determined in writing by the Commission in accordance with the Commission's Code of Conduct, will be precluded from participating on a Respondent team or acting as a consultant to a Respondent:

- (a) Any individual who is or was an employee of the Commission or a Project Partner and was involved in the development of this RFQ or any other documents relating to the Program procurement or who is otherwise barred from participation in this procurement by the *Commission's Conflict of Interest Policy and Code of Ethics for Commissioners and Officers* or the Code of Conduct.
- (b) Any consultant firm that has been contracted by the Commission or any Project Partner to provide professional services in connection with the Project or the Program, including each of the Persons listed in Appendix 11 (Conflicted Persons).
- (c) Any Affiliate of each of the foregoing Persons.
- (d) Any consultant firm that is selected and retained in connection with Amtrak Solicitation No. RFQ X048-23093 Hudson Tunnel Project Delivery Partner.

The Commission does not currently anticipate an actual or potential conflict of interest to arise from a consultant's participation in the Tonnelles Avenue Overhead Bridge and Utility Relocations procurement (Contract GDC23-002); the Performance of Expert Professional Construction Management and Related Technical Services for the Tonnelles Avenue Overhead Bridge and Utility Relocation Project procurement (Contract GDC23-001); or the Hudson River Ground Stabilization procurement (Contract GDC23-003). The Commission does not currently anticipate an actual or potential conflict of interest to arise from participation in any future Hudson River Tunnel Project construction projects.

Except as specified above, participation in any other Program-related activities, even if not related to this Project, should be considered a potential conflict of interest, for which the party should submit information to the Commission for a determination as to whether there is an actual conflict and, if so, whether it can be adequately mitigated.

## 5.5 Changes in Respondent Organization

The Commission expects Respondent teams to remain intact, as described in their SOQs, during the entire procurement process. However, the Commission wants to ensure that Respondents and Proposers can develop and attract the broad expertise necessary to participate in this procurement and optimally construct the Project in an innovative, effective, and efficient manner. Accordingly, the Commission will permit Respondents and Proposers to add, delete or substitute team members and reorganize the Respondent and Proposer team, as applicable, during the procurement process until a specified date prior to submittal of the Proposals, except in the event

that the change results in actual or potential organizational conflicts of interest or renders the Respondent's or Proposer's team, as applicable, less qualified to deliver the Project as determined by the Commission in its discretion.

The addition of new entities or other changes to the composition of a Respondent, between the date of submission of its Registration Submittals and submission of its SOQ, shall not be deemed to be a change to the Respondent.

Notwithstanding the foregoing, following submittal of the SOQs, Respondents may not undertake any of the following actions without the Commission's prior written approval (which will be subject to the Commission's discretion):

- (a) Deletion, substitution or addition of a Principal Participant, a Guarantor, or any other entity that has committed or will commit to bear financial responsibility or liability for the performance of the Respondent, if selected to be the Contractor;
- (b) Other changes, direct or indirect, in the equity ownership of a Principal Participant (excluding changes resulting from public trading of stock);
- (c) Deletion, substitution, or other change in composition of an entity identified as a member of the Respondent in the Respondent's SOQ or a change in the role or scope of work of an identified Respondent team member, in each case, following submission of the SOQ; and
- (d) Deletion or substitution of Key Personnel identified in a Respondent's SOQ, or a change in the role or position of such individual.

## **5.6 Code of Conduct**

The Commission has adopted a Code of Conduct (the "Code"). The Code is hereby made a part of this Contract. The Code can be found on the Commission's website through the following link: <http://www.gatewayprogram.org/wp-content/uploads/2021/12/11-16-21-Adopted-Code-of-Conduct.pdf>

## **5.7 Ethics and Non-Collusion**

### **5.7.1 Procurements Involving Former Commission Officers and Employees.**

Former Commission officers and employees shall comply with, and this procurement must comply with, applicable laws and rules, regulations, and policies adopted by the Board with respect to involvement of former Commission officers and employees in contracts procured by the Commission, including the Project Contract being procured as described in this RFQ. Policies adopted by the Board to date include the *Commission's Conflict of Interest Policy and Code of Ethics for Commissioners and Officers* or the Code of Conduct.

### **5.7.2 Statement of Non-Collusion in Proposals**

Respondents are advised that Proposals submitted in response to the RFP will be required to comply with the following requirements of the Commission's enabling legislation:

- (a) Each solicitation for a Procurement Contract issued by the Commission shall require that all Proposals contain the following statement subscribed by the Proposer and affirmed by such Proposer as true under the penalties of perjury (provided that terminology may be adjusted as appropriate for RFPs):

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

- (i) The prices in this Proposal have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Proposer or with any competitor;
  - (ii) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by the Proposer prior to opening, directly or indirectly, to any other Proposer or to any competitor; and
  - (iii) No attempt has been made or will be made by the Proposer to induce any other person, partnership, or corporation to submit or not to submit a Proposal for the purpose of restricting competition.
- (b) A Proposal shall not be considered for award, nor shall any award be made where the provisions of Subsection 5.7.2(a) above have not been complied with; provided, however, that if in any case the Proposer cannot make the foregoing certification, the Proposer shall so state and shall furnish with the Proposal a signed statement which sets forth in detail the reasons therefor. Where the provisions of Subsection A have not been complied with, the Proposal shall not be considered for award, nor shall any award be made unless the Commission or official thereof determines that such disclosure was not made for the purpose of restricting competition. The fact that a Proposer (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure.
- (c) Any Proposal submitted to the Commission by a corporate Proposer for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is utilized, and where such Proposal contains the certification referred to in Subsection A hereof shall be deemed to have been authorized by the board of directors of the Proposer, and such authorization shall be deemed to include the signing and submission of the Proposal and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.

## **6. Commission's Rights and Disclaimers**

### **6.1 Commission's Reserved Rights**

The Commission reserves the right, in its discretion, and without incurring any obligations or liabilities, to modify, cancel, or withdraw this RFQ, in whole or in part, or any element of the procurement process contemplated hereby, in the best interest of the Project, the Commission, or a Project Partner, including to comply with applicable law and to address any concerns, conditions, or requirements of a Project Partner, the FTA, the FRA, or any other federal agency or Project Stakeholder. Further, the Commission reserves the right, in its discretion and without incurring any obligations or liabilities, to do any of the following, at any time, during the RFQ Phase:

- (a) develop the Project in any manner that it, in its discretion, deems necessary;
- (b) issue Addenda and other supplements and modifications to this RFQ at any time, including to modify the scope of work being procured;
- (c) modify any dates and times set or projected in this RFQ, including the Procurement Schedule;
- (d) conduct bilateral or other types of meetings with Respondents to provide them with a better understanding of the Program, the Project, the procurement process or any of the other information in this RFQ; provided, that, the Commission shall provide all Respondents an equal opportunity to participate in such meetings, and all meetings will be subject to uniform protocols to be issued in advance of the meetings that will promote a fair procurement process;
- (e) reject any and all SOQs or other submittals, or not shortlist any Respondent;
- (f) terminate evaluations of SOQs;
- (g) disqualify a Respondent if (i) a conflict of interest arises, that cannot be resolved to the satisfaction of the Commission or (ii) its conduct and/or SOQ fails to conform to the requirements of this RFQ;
- (h) require clarification or confirmation of any information furnished by a Respondent, including in its SOQ;
- (i) take any of the following actions: (i) waive minor informalities, irregularities, omissions, nonconformities, deficiencies, discrepancies, and apparent clerical mistakes in SOQs, (ii) accept and review a non-conforming SOQ or seek clarifications or modifications to an SOQ, or (iii) permit corrections, addenda, supplements and other modifications to an SOQ, in each case, until such time as the Commission declares in writing that a particular stage or phase of its review of the responses to this RFQ has been completed and closed;
- (j) seek or obtain data from any source that has the potential to improve the Commission's understanding and evaluation of the SOQ;
- (k) appoint evaluation committees to review SOQs, make recommendations and seek the assistance of outside technical experts and consultants to support the Commission's evaluation of SOQs;

- (l) take any of the following into consideration during evaluation of SOQs:
  - (i) prior knowledge and previous experience with the Respondent or any of its team members;
  - (ii) information (including opinions, representations and advice) about the past and current performance of the Respondent or any of its team members under any contract, transaction, arrangement or other experience between such Person and Commission, any Project Partner or other governmental entity; and
  - (iii) information about the Respondent or any of its team members that is in the public domain or that is obtained by the Commission through investigations or other means;
- (m) publish the names of the Respondent and any of its team members and advisors; and
- (n) exercise any other right reserved or afforded to the Commission under this RFQ and applicable law.

## **6.2 Commission's Disclaimers**

- (a) Issuance of this RFQ is not an offer to enter into a contract of any kind. This RFQ does not commit the Commission to enter into the Project Contract or any other agreement with any Person. The Commission assumes no obligations, responsibilities, or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by Respondents considering a response to and/or responding to this RFQ or make any payments in respect thereof. All such costs shall be borne solely by each Respondent.
- (b) In no event shall the Commission be bound by, or liable for, any obligations with respect to the Project until such time (if at all) the Project Contract, in form and substance satisfactory to the Commission, has been authorized and executed by the Commission, and only to the extent set forth therein and the other Contract Documents, if any.
- (c) In addition, neither the Commission nor any Project Partner, nor any of their respective commissioners, directors, officers, employees, agents, or consultants, shall be charged personally with any liability by any Respondent or other Person, or held liable to any Respondent or other Person, under any term or provision of this RFQ or any statements made herein, or because of the submission or attempted submission of an SOQ or other response hereto. By submitting an SOQ, each Respondent expressly waives any right it may have to bring a claim against the Commission, any Project Partner, or any of their respective commissioners, directors, officers, employees, agents, or consultants thereof for any such liability, except for claims permitted pursuant to the protest process set forth in Section 7.

In submitting an SOQ in response to this RFQ, each Respondent is acknowledging the disclaimers above in this Section 6.2.



## 7. Protests

This Section 7 sets forth the exclusive protest remedies available to Respondents and other interested parties with respect to this RFQ, and no protest with respect to this RFQ may be filed except pursuant to this Section. Any Respondent or other interested party may protest (x) this RFQ or a requirement hereof, on the basis that it is wholly ambiguous, contrary to applicable legal requirements, or is outside the Commission's authority, (y) a determination as to whether an SOQ is responsive to the requirements of this RFQ, or (z) the selection of the Shortlisted Respondents under this RFQ. An "interested party" is an actual or prospective Respondent whose direct economic interest would be affected by shortlisting (on non-shortlisting) under this RFQ or subsequent award (or non-award) of the Project Contract.

Protests regarding this RFQ or a requirement hereof shall be submitted in writing to the Commission Representatives no later than 10 days prior to the due date for SOQs. Protests regarding a responsiveness decision or shortlisting decision shall be submitted to the Commission Representatives in writing no later than 10 days after the earlier of (i) as applicable, receipt of the notice of non-responsiveness, or the date notice of the Shortlisted Respondents has been posted on the Procurement Portal, or (ii) the date of actual knowledge by the protester that its SOQ has been determined non-responsive or it has otherwise not been selected as a Shortlisted Respondent.

All protests must be submitted in hardcopy to the Commission Representatives by certified mail, overnight courier, or hand delivery. The written protest must be received by the Commission Representatives not later than 5:00 p.m. on the 10th day as set forth above. In the event the 10th day falls on a day that is not a business day, the ten-day period expires at 5:00 p.m. on the next business day.

The protest should contain, at a minimum, the following information:

- (a) name and address of the protester, and a telephone number and an email address for the protester's representative;
- (b) the title and number of this RFQ;
- (c) a statement concerning the protester's interest in the RFQ and/or shortlisting;
- (d) a detailed statement of the basis for the protest, including any supportive documents and information; and
- (e) the relief requested and the reason therefor.
- (f) The protester shall have the burden of proving its protest through its written submissions.

The Commission shall, within three business days of receipt of the protest, appoint a "**Protest Officer**" with the requisite procurement knowledge to review the protest and supportive documents and issue a written decision within thirty days of the appointment, when feasible. The Protest Officer may take any action or make any request they deem necessary to investigate the protest, including extending the time to issue a decision to obtain all evidence and other pertinent information.

The protester will be provided a copy of the written decision. This decision will be final unless, within three business days of receipt of the written decision, the protester appeals the decision to the Commission's Senior Director of Procurement or their designee. The appeal shall be in writing, sent by certified mail, overnight courier, or hand-delivery, to the Senior Director of Procurement, sent to the care of the Commission Representatives at their address.

No evidence or information may be introduced or relied upon in the appeal that has not been presented to the Protest Officer. The Senior Director of Procurement will review the appeal and supporting documents and the decision of the Protest Officer and issue a written decision within thirty days after receipt of the appeal, where feasible. The Senior Director of Procurement may take any action or make any requests they deem necessary, including extending the time to issue a decision to render a decision on the appeal.

The decision of the Senior Director of Procurement or their designee shall be conclusive and final. Any appeal of a decision of the Senior Director of Procurement is subject to the applicable standards of judicial review or federal agency review, as applicable, and nothing in this RFQ constitutes an agreement by the Commission to modify the applicable standards for the benefit of the protester or otherwise.

Each Respondent, by submitting its SOQ, expressly recognizes and agrees to the limitation on its rights to protest provided in this Section 7, expressly waives all other rights and remedies that may be available to the Respondent under law, and agrees that the decision on the protest is final and conclusive. These protest provisions are included in this RFQ expressly in consideration for such waiver and agreement by the Respondents.

## 8. Submission Requirements for Registration Submittals and SOQs

### 8.1 Required Content and Organization for Registration Submittals

- (a) Not later than the deadline listed in the Procurement Schedule, Respondents must register with the Commission by submitting the Forms, financial statements, and other information required under Appendix 6 (Registration Submittals) (collectively, the “**Registration Submittals**”). The Registration Submittals must be organized as listed in Appendix 5 (Registration Submittals Checklist).
- (b) The Registration Submittals must (i) comply with the formatting and other general requirements of Section 8.3 and (ii) be delivered to the Commission in accordance with Section 8.4 by the applicable deadline.
- (c) If an entity deems any information in a Registration Submittal to be Confidential Respondent Information, it must provide (i) an index of each Registration Submittal that it deems to be Confidential Respondent Information and (ii) a statement signed by the relevant entity explaining its rationale for designating that Registration Submittal as Confidential Respondent Information.
- (d) Following a Respondent’s submission of an SOQ, its Registration Submittals, as amended or revised by its SOQ, will be deemed to be incorporated by reference into its SOQ and form an integral part of its SOQ, which will be subject to evaluation by the Commission. The Registration Submittals submitted pursuant to Section 1 of Appendix 5 (Registration Submittals) will be deemed to be Administrative Submittals, and those submitted pursuant to Section 2 of Appendix 5 (Registration Submittals) will be deemed to be Financial Submittals, in each case, as updated, supplemented or superseded by the relevant information in the SOQ.

### 8.2 Required Content and Organization for SOQs

The Commission expects each Respondent’s SOQ to provide enough information to allow the Commission to evaluate and score the SOQ based on the evaluation criteria set forth in Section 9.2. Any failure to provide all required information, including properly completed Forms, in accordance with the instructions herein may result in the Commission finding the relevant SOQ non-responsive or giving it a lower score. Forms provided herein may not be substantively altered by the Respondent.

Each SOQ must include the following information, organized as separate volumes, as described below:

- (a) SOQ Volume 1 - Administrative Submittals: All legal, organizational, and administrative information required under Appendix 8 (SOQ Volume 1 – Administrative Submittals) (collectively, the “**Administrative Submittals**”) must be prepared in accordance with the instructions set forth therein and contained in SOQ Volume 1;
- (b) SOQ Volume 2 - Technical Submittals: All technical, Key Personnel and prior experience information required under Appendix 9 (SOQ Volume 2 – Technical Submittals) (collectively, the “**Technical Submittals**”) must be prepared in accordance with the instructions set forth therein and contained in SOQ Volume 2; *provided* that, (i) any Technical Submittals containing Confidential Respondent Information must be submitted in a separate volume in accordance with Section 8.2(c) and (ii) the Respondent must include a “placeholder” in SOQ Volume 2 where the Confidential Respondent Information would have been located if it had not been confidential;

- (c) SOQ Volume 3 - Confidential Technical Submittals: If a Respondent deems any information in a Technical Submittal to be Confidential Respondent Information, it should be excluded from SOQ Volume 2 and submitted in SOQ Volume 3; *provided that*, SOQ Volume 3 must contain (i) an index of all Technical Submittals contained therein and (ii) a statement signed by the Respondent or relevant team member explaining its rationale for designating the Technical Submittals as Confidential Respondent Information;
- (d) SOQ Volume 4 - Financial Submittals: All financial information required under Appendix 10 (SOQ Volume 4 – Financial Submittals) (collectively, the “**Financial Submittals**”) must be prepared in accordance with the instructions set forth therein and contained in SOQ Volume 4; *provided that*, (i) any Financial Submittals containing Confidential Respondent Information must be submitted in a separate volume in accordance with Section 8.2(e) and (ii) the Respondent must include a “placeholder” in SOQ Volume 4 where the Confidential Respondent Information would have been located if it had not been confidential; and
- (e) SOQ Volume 5 - Confidential Financial Submittals: If a Respondent deems any information in a Financial Submittal to be Confidential Respondent Information, it should be excluded from SOQ Volume 4 and submitted in SOQ Volume 5; *provided that*, SOQ Volume 5 must contain (i) an index of all Financial Submittals contained therein and (ii) a statement signed by the Respondent or relevant team member explaining its rationale for designating the Financial Submittals as Confidential Respondent Information.

### **8.3 Formatting and Other General Requirements for Registration Submittals and SOQs**

Respondents must also prepare and submit Registration Submittals and SOQs in accordance with the following instructions and requirements:

- (a) As part of the Commission’s commitment to sustainability, the submission process is entirely digital.
- (b) Respondents must prepare SOQ submittals on 8-1/2” x 11” sized-equivalent white background, except for organizational charts, which Respondents may present on 11” x 17” sized-equivalent white background. Except for tables, organizational charts, and forms, which Respondents may prepare using a minimum of 10-point font size, Respondents must prepare the SOQ using a minimum of 11-point font size.
- (c) SOQs must be submitted using the designated Procurement Portal, following the instructions that the Respondent receives after submitting an Expression of Interest.
- (d) Page limits: Page limits for Registration Submittals and SOQ are set forth in Appendix 5 (Registration Submittals Checklist) and Appendix 7 (SOQ Checklist), respectively.
- (e) The Commission encourages use of cover pages, tables of contents, dividers, and tabs in the Registration Submittals and SOQ, and these will not be counted toward any page limits.
- (f) Language; currency: The Registration Submittals and SOQ shall be written entirely in the English language. If any original document required for a Registration Submittal or SOQ was prepared in another language, the Respondent shall provide an English translation, certified to be a true and accurate copy by public notary, that shall prevail over the original document in the event of any conflict with the original document.

Except as permitted by Section 2(c) of Appendix 6 (Registration Submittals), or otherwise permitted by this RFQ, all references to currency or amounts of money in the Registration Submittals or SOQ shall be to the lawful currency of the United States of America.

- (g) No marketing content: Respondents may not include any corporate brochures, awards, or other marketing materials in the Registration Submittals or SOQ.
- (h) Labeling: All components of the Registration Submittals and SOQ shall be labeled, as applicable:

**“Registration Submittals for 1A - RFQ No. GDC23-004” or**

**“Statement of Qualifications for 1A - RFQ No. GDC23-004”.**

The Respondent shall be entirely responsible for any consequences that result from the Respondent's failure to follow any of the Registration Submittal or SOQ instructions herein, including its SOQ being deemed non-responsive.

#### **8.4 Registration Submittals and SOQ Delivery**

Each Respondent is solely responsible for ensuring that its Registration Submittals and SOQ are submitted by the times and dates specified in the Procurement Schedule and at the location specified below. Submissions received after the time due on the relevant deadline may be rejected without consideration or evaluation. The Commission is not responsible for delays in Registration Submittals or SOQ electronic delivery for any reason whatsoever.

Registration Submittals must be electronically submitted to the Commission Representatives named in Section 4.2.

Hand deliveries and mailed deliveries (e.g., UPS, USPS) will not be accepted. The Commission may request an original, signed paper submission at any time following the SOQ Due Date.

If requested, such original, signed paper submission must be identical to the electronic submission. In the event of a discrepancy, the electronic submission shall control. If requested by the Commission, the paper submission must be identical to the electronic submission that was submitted by the SOQ Due Date. In the event of a discrepancy, the electronic submission shall take precedence.

#### **8.5 Registration Submittals and SOQs Become Property of the Commission**

Once submitted to the Commission, all documents comprising the Registration Submittals and SOQs will become property of the Commission and will not be returned to the Respondents. The Commission will not make any payments to Respondents in connection with this RFQ.

## **9. SOQ Evaluation**

### **9.1 Evaluation Process Overview**

The SOQ evaluation process will include the following:

- (a) Responsiveness Review – The Commission will evaluate each SOQ for responsiveness based on pass/fail criteria, as described in Section 9.2.1;
- (b) Technical Submittals Evaluation – The Commission will evaluate the Technical Submittals in each SOQ based (i) on pass/fail criteria, as described in Section 9.2.3(a) and (ii) on scored criteria and will be comparatively evaluated in respect of each scored criterion, as described in Section 9.2.3(b);
- (c) Financial Submittals Evaluation – The Commission will evaluate the Financial Submittals in each SOQ based on pass/fail criteria, as described in Section 9.2.4; and
- (d) SOQ Scoring and Shortlisting – The Commission will determine the total score for each SOQ by summing the points scored for each of the technical evaluation criteria. The Commission will select up to five Respondents in the predetermined competitive range that have achieved the highest total SOQ scores to be the Shortlisted Respondents, *provided* that, they have (i) passed all pass/fail evaluation criteria in, and been determined to be responsive to the requirements in this RFQ in accordance with, Section 9.2.1, (ii) passed all technical pass/fail evaluation criteria in Section 9.2.3(a), and (iii) passed all financial pass/fail evaluation criteria in Section 9.2.4.

Any SOQ determined by the Commission to be non-responsive to this RFQ or that does not pass any pass/fail criteria herein may be excluded from further consideration and will not be eligible for shortlisting.

The Commission anticipates utilizing one or more committees to review and evaluate the SOQs in accordance with this Section 9. Advisors, including outside consultants, and other qualified individuals may assist the committees with their review of SOQs, but all evaluative determinations and scoring will be within the Commission's discretion.

The SOQ evaluation process is subject to modification by the Commission, in its discretion.

### **9.2 Evaluation Criteria**

#### **9.2.1 Responsiveness Review**

The Commission will evaluate the responsiveness of each SOQ and Respondent based on the pass/fail evaluation criteria listed below. If a Respondent satisfies all the pass/fail evaluation criteria, the SOQ will be evaluated using the Evaluation Criteria detailed in Section 9.2. If a SOQ does not meet a pass/fail evaluation criterion, the SOQ may be rated as “unacceptable” and the review will discontinue. Certain deficiencies may be allowed in a SOQ relating to the pass/fail evaluation criteria in the Commission's sole discretion, and the Respondent may be allowed to submit corrected materials through clarifications; however, the Commission is under no obligation allow such clarifications.

- (a) The Respondent provided the Registration Submittals in accordance with Section 6.1.
- (b) The Respondent provided all documents, including all Forms, and information required pursuant to Appendix 8 (SOQ Volume 1 – Administrative Submittals), Appendix 9 (SOQ Volume 2 – Technical Submittals), and Appendix 10 (SOQ Volume 4 - Financial

Submittals), in each case, in accordance with the requirements therein and the requirements set forth in Sections 8.2 and 8.3.

- (c) With respect to any material information or submittal required in the Registration Submittals and SOQs, the Respondent's relevant submission:
- (i) does not include conditional or qualified statements (such as "to our knowledge", "to the extent of available information", "such information is not readily available", and "such information is not maintained in the manner requested") that are not expressly permitted by this RFQ or included within the relevant form;
  - (ii) is complete and accurate and does not contain any material misrepresentation; and
  - (iii) is responsive to the relevant RFQ requirements.
- (d) Neither the Respondent nor any member of the Respondent team that submitted a Certification and Legal Qualifications (Form A-4) (i) has been disqualified, removed, debarred or suspended from performing or bidding on work for the State of New Jersey or the State of New York, or any local government within either state where such disqualification, removal, debarment or suspension has resulted in the Respondent or other entity being currently disqualified, removed, debarred or suspended from performing or bidding on the contracts of an agency of either state, or (ii) is currently disqualified, removed, debarred or suspended from performing, proposing or bidding on work for the U.S. federal government or for any other U.S. state.
- (e) The information disclosed in Certification and Legal Qualifications (Form A-4) does not materially adversely affect the Respondent's ability to carry out the Project responsibilities potentially allocated to it.
- (f) Vendor Responsibility: The Respondent has demonstrated that it has no integrity or performance issues that could adversely impact its ability to advance to the RFP phase and to deliver the Project under the Contract.

### 9.2.2 Technical Submittals – Scoring Overview

The following table provides (a) the scored criteria in relative order of importance that the Commission will use to evaluate the Technical Submittals in each SOQ, (b) the maximum number of points assigned to each scored criterion, and (c) the maximum number of points that an SOQ may score.

Each SOQ that has satisfied the pass/fail evaluation criteria listed in Section 9.2.1 will be evaluated against the comparative evaluation criteria as described further in Section 9.2.3.

Scored Evaluation Criteria for Technical Submittals	Points
1. Past Performance	30
2. Key Personnel	30
3. Technical Understanding	20
4. Organization	10
5. Experience	10
MAXIMUM AVAILABLE POINTS FOR EACH SOQ = [100 ]	

Respondents should be aware that the Key Personnel positions identified in this RFQ shall be carried forward to the RFP. The scoring of those Key Personnel positions in the evaluation of the SOQ will likewise carry forward in the scoring of those Key Personnel positions in the Proposals submitted from the Shortlisted Respondents. The scoring of those Key Personnel will not be altered for those positions, even if the Shortlisted Respondent has proposed and received Commission approval for substitution of one or more Key Personnel that meet the required equal or better requirement for change in Key Personnel.

### 9.2.3 Technical Submittals – Evaluation Criteria

#### (a) Technical Submittals – Pass/Fail Criteria

The Commission will evaluate the technical qualifications of each Respondent to successfully deliver the Project, as evidenced by its Technical Submittals, based on the pass/fail evaluation criteria listed below.

- (i) Legal Standing
- (ii) Financial Strength
- (iii) Backlog and Capacity
- (iv) Vendor Responsibility

#### (b) Technical Submittals – Scored Criteria

The Commission will comparatively evaluate and score the technical qualifications of each Respondent submitting to successfully deliver the Project, as evidenced by its Technical Submittals, based on the evaluation criteria listed below. The evaluation criteria and the sub-criteria are listed below in order of priority to the Commission, commencing with the highest priority criteria and sub-criteria. The factors to be considered related to each sub-criterion are not listed in any particular order.

Evaluation Criteria and Sub-criteria	Factors to be Considered
(1) <b>Past Performance</b> – The extent to which the Respondent demonstrates that its background, experience, and past performance in constructing hard rock tunnel projects similar in size and scope to the Project will enable it to support the Commission to achieve the Project Goals, as evidenced through the following sub-criteria and related factors to be considered (see <u>Appendix 9 (SOQ Volume 2 – Technical Submittals)</u> for more details):	
Contractor Experience	<ul style="list-style-type: none"> <li>• Experience delivering similar complex hard rock tunnel projects that involve managing interfaces with project owner's or other stakeholders' related or adjacent projects</li> <li>• Demonstration of completion of large, complex hard rock tunnel projects and in dense, urban environments and/or having environmental constraints on time and within initial budgets</li> <li>• Relevant experience with tunnel contracting and other processes that demonstrably improved the quality, cost or schedule performance for the Project</li> </ul>



Evaluation Criteria and Sub-criteria	Factors to be Considered
	<ul style="list-style-type: none"> <li>• Experience descriptions demonstrate how “lessons learned” will be applied to the Project</li> <li>• Does not have a track record of requests for change orders, claims, disputes, litigation, arbitration, liquidated damages, terminations, or disciplinary action that demonstrates that a member of the Contractor has a proclivity for submitting excessive, unwarranted, or frivolous requests for change orders, claims or other actions that would create a contentious relationship with project owners</li> <li>• DBE performance record demonstrates a strong track record of achieving the DBE participation goals for projects</li> <li>• Prior utilization of materials, methodology and procedures to demonstrate an awareness of sustainability in project delivery</li> </ul>
Specialty Subcontractors Experience	<ul style="list-style-type: none"> <li>• Experience successfully completing complex hard rock tunnel projects in dense, urban environments and/or having environmental constraints</li> <li>• Respondent demonstrates breadth and depth of experience with methods that may be applicable to the Project</li> </ul>
Respondent Safety Record	<ul style="list-style-type: none"> <li>• Contractor and relevant Key Personnel’s safety-related information demonstrates internal policies and procedures, including training requirements and job-site safety programs that reflect a robust safety culture focused on the safety of personnel and other individuals on the Project Site and in particular tunnel environments.</li> <li>• Contractor and relevant Key Personnel’s safety-related information demonstrates a strong track record of protecting the health and safety of personnel on project sites</li> </ul>
<p>(2) <b>Key Personnel</b> – The extent to which the Respondent demonstrates that the individuals it proposes to work on the Project (collectively, the “<b>Key Personnel</b>”) have the appropriate experience and skills for successful delivery of the Project, as evidenced through the following sub-criteria and related factors to be considered (see <u>Appendix 9 (SOQ Volume 2 – Technical Submittals)</u> for more details):</p>	
Project Manager Experience	<ul style="list-style-type: none"> <li>• Length and depth of experience in managing complex construction of public infrastructure projects that involve managing interfaces with project owner’s or other stakeholders’ related or adjacent projects, including projects of similar scope and complexity</li> <li>• Demonstration of managing on-time completion of large, complex hard rock tunnel projects, in dense, urban environments and/or having environmental constraints</li> <li>• Experience in construction for public owners under a design-bid-build contract</li> <li>• Experience in leading projects where sustainability in design and construction are a demonstrated consideration</li> </ul>

Evaluation Criteria and Sub-criteria	Factors to be Considered
Construction Manager Experience	<ul style="list-style-type: none"> <li>Length and depth of experience in managing construction of complex marine operations and logistics projects and ground improvement projects of similar scope and complexity</li> <li>Experience in coordination with relevant regulatory agencies including projects in urban environments and/or with environmental constraints in which challenges were successfully overcome</li> </ul>
TBM Lead Experience	<ul style="list-style-type: none"> <li>Length and depth of experience in advising on TBM excavation and operation through hard rock with cutterhead and cutter maintenance and ground support of precast concrete segmental tunnel lining</li> <li>Experience in complex hard rock tunnel projects with environmental constraints in which challenges were successfully overcome</li> </ul>
Rock Mass Grouting Lead Experience	<ul style="list-style-type: none"> <li>Length and depth of experience in advising on rock mass grouting on tunnel projects.</li> </ul>
Slurry Wall Lead Experience	<ul style="list-style-type: none"> <li>Length and depth of experience in advising all aspects of the slurry wall installation on tunnel projects.</li> </ul>
Construction Quality Manager Experience	<ul style="list-style-type: none"> <li>Length and depth of experience developing, implementing, and maintaining quality management systems for construction of complex tunnel projects of similar complexity and scope</li> </ul>
Environmental Coordinator	<ul style="list-style-type: none"> <li>Length and depth of experience coordinating, developing, and implementing environmental issues for construction of complex tunnel projects of similar complexity and scope</li> </ul>
Safety Manager	<ul style="list-style-type: none"> <li>Length and depth of experience developing, implementing, and maintaining construction safety and health management plans for tunnel projects of similar complexity and scope</li> </ul>
Diversity & Inclusion Manager	<ul style="list-style-type: none"> <li>Length and depth of experience developing, implementing, maintaining and reviewing processes and policies to determine if they support diversity and inclusion work, developing and implementing diversity and inclusion initiatives and strategies to achieve and maintain project DBE goals, in accordance with USDOT DBE requirements</li> </ul>
<b>(3) Technical Understanding</b> – The extent to which the Respondent demonstrates a strong understanding of key Project issues as evidenced through the following sub-criteria and related factors to be considered (see <u>Appendix 9 (SOQ Volume 2 – Technical Submittals)</u> for more details):	
Project Understanding	<ul style="list-style-type: none"> <li>Understanding of the key risks, challenges, opportunities, and other critical issues related to the Project, the Commission and Contractor's scope.</li> </ul>
Conceptual Work Plan	<ul style="list-style-type: none"> <li>The extent to which the Respondent demonstrates that its conceptual work plan for the Project will enable it to support the Commission to achieve relevant Project Goals.</li> </ul>

Evaluation Criteria and Sub-criteria	Factors to be Considered
<p>(4) <b>Organization</b> – The extent to which the Respondent demonstrates that its organizational structure and management approach for the Project will enable it to support the Commission to achieve relevant Project Goals, as evidenced through the following sub-criteria and related factors to be considered (see <a href="#">Appendix 9 (SOQ Volume 2 – Technical Submittals)</a> for more details):</p>	
Respondent Organization	<ul style="list-style-type: none"> <li>• Clearly defined roles and responsibilities, reporting lines and project controls that are in place for decision-making</li> <li>• The approach and organizational structure to achieve construction quality; quality management and oversight roles are clearly separated from production roles</li> <li>• The extent to which the members of the Respondent team have prior experience working together on projects of similar size and complexity as the Project.</li> </ul>
Management Approach	<ul style="list-style-type: none"> <li>• The proposed management approach ensures it is capable of functioning as a well-integrated team that will effectively manage the key Project risks that the Commission expects the Contractor to bear under the Project Contract</li> <li>• The approach to completing the Project on-time and on-budget</li> <li>• The approach to coordination and communication with the Commission and to manage various Project risks, including collaborative approaches to manage the Commission’s retained risks</li> <li>• The approach to deliver the Project within their current management capabilities and backlog</li> <li>• The approach and structure to ensure seamless transition from construction to turnover on a construction contract</li> <li>• The approach to maximizing benefits and integrating innovation into the Project</li> </ul>
<p>(5) <b>Experience</b> – The extent to which the Respondent demonstrates that its organizational experience will enable it to support the Commission to achieve relevant Project Goals, as evidenced through the following sub-criteria and related factors to be considered (see <a href="#">Appendix 9 (SOQ Volume 2 – Technical Submittals)</a> for more details):</p>	
Organizational Experience	<ul style="list-style-type: none"> <li>• Length and depth of organization’s experience in delivering projects of similar scope and complexity.</li> <li>• Experience in projects of similar scope and complexity in which challenges were successfully overcome.</li> <li>• Demonstrated experience where sustainability is considered during the process of project execution.</li> </ul>

#### 9.2.4 Financial Submittals – Evaluation Criteria

The Commission will evaluate the financial qualifications of each Respondent submitting to successfully deliver the Project, as evidenced by its Financial Submittals, based on the pass/fail evaluation criteria listed below.

(a) Bonding Capacity

- (i) The Respondent has the capacity to bond and to meet other requirements of undertaking and completing the contract work, as evidenced by the information provided in accordance with Appendix 10 (SOQ Volume 4 – Financial Submittals).
- (ii) In addition to providing the required information above, the Respondent shall provide an Alternative Security Package Submittal in accordance with Section 6 of Appendix 10 (SOQ Volume 4 – Financial Submittals) that proposes to adequately protect the financial interest of the Commission and FTA in lieu of providing the full amount of performance and payment bonds in accordance with FTA requirements.

(b) Contractor Minimum Financial Strength – The Respondent has the financial strength and capacity to successfully perform the scope of the Project and bear the risks anticipated to be allocated to the Contractor under the fixed -price Project Contract, as evidenced by the financial statements provided in accordance with Appendix 6 (Registration Submittals) and the Financial Officer's Certificates (Form F-1), financial statements, and Surety Letter(s) provided in accordance with Appendix 10 (SOQ Volume 4 – Financial Submittals).

## **APPENDIX 1**

### **DEFINITIONS**

**Addendum** has the meaning set forth in Section 3.3.1.

**Administrative Submittals** has the meaning set forth in Section 8.2(a).

**Affiliate** means, with respect to any Person, an entity that directly or indirectly controls, or is under common control with, or is controlled by such Person, including a parent, affiliate or subsidiary, at any tier. As used in this definition, “control” (including, with its correlative meanings “under common control with” and “controlled by”) means possession, directly or indirectly, of power to direct or cause direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise). If a Person is an individual, an “Affiliate” includes any member of the immediate family of such individual (including parents, spouse, children, and siblings) and any trust whose principal beneficiary is such individual or one of more members of such immediate family.

**Alternative Security Package Submittal** has the meaning set forth in Section 6 of Appendix 10 (SOQ Volume 4 – Financial Submittals).

**Amtrak** has the meaning set forth in Section 1.2.

**Best Value** has the meaning set forth in Section 2.1.

**Board** has the meaning set forth in Section 1.2.

**CIAR** has the meaning set forth in Appendix 3 (Project Description).

**CIG or Capital Investment Grant** has the meaning set forth in Section 2.4.

**Code of Conduct or Code** has the meaning set forth in Section 5.6

**Commission** has the meaning set forth in Section 1.1.

**Commissioners** means the commissioners of the GDC as described in Section 1.2.

**Commission Representative** has the meaning set forth in Section 4.2.

**Commission Website** has the meaning set forth in Section 1.3.1.

**Compensation Events** has the meaning set forth in Appendix 4 (Anticipated RFP and Project Contract Terms).

**Confidential Respondent Information** has the meaning set forth in Section 4.5.

**Contract Documents** means, collectively, the Project Contract and accompanying exhibits, appendices, and other documents, including the Technical Specifications, the portions of the successful Proposer’s Proposal incorporated into the Project Contract, and any third-party agreements and other documents or agreements that will govern the rights and obligations of the Contractor with respect to the Project.

**Contractor** means the member of the Respondent team, whether a single entity or an unincorporated joint venture, that will serve as the prime/general contractor primarily responsible for the construction of the Project.

**DBE** means “Disadvantaged Business Enterprise” as such term is defined in 49 C.F.R. § 26.5.

**EIS** has the meaning set forth in Section 2.4.

**Expression of Interest** has the meaning set forth in Section 4.1.1

**FEIS** has the meaning set forth in Section 2.4.

**Financial Proposal** means the portion of a Proposer’s Proposal that includes, among other things, its proposed fixed-price to perform the scope of work for the Project.

**Financial Submittals** has the meaning set forth in Section 8.2(d).

**FRA** has the meaning set forth in Section 2.3.

**FTA** has the meaning set forth in Section 2.3.

**GAAP** has the meaning set forth in Section 2(d) of Appendix 6 (Registration Submittals).

**Gateway Development Commission** has the meaning set forth in Section 1.2.

**GBR** or **Geotechnical Baseline Report** has the meaning set forth in Section 3(e) of Appendix 3 (Project Description).

**GDC Act** or **Gateway Development Commission Act** has the meaning set forth in Section 1.3.1.

**GDC Board** has the meaning set forth in Section 1.2

**GDR** or **Geotechnical Data Report** has the meaning set forth in Section 3(e) of Appendix 3 (Project Description).

**Good Industry Practice** has the meaning set forth in Appendix 4 (Anticipated RFP and Project Contract Terms).

**Guarantor** means, with respect to the Contractor, a parent company or other Affiliate that intends to (a) guarantee the performance and financial obligations of the Contractor under the Project Contract and (b) provide the Respondent, Proposer or Contractor, as applicable, human resources, financial and other support in connection with the Project.

**Hoboken Shaft** has the meaning set forth in Section 2.2.

**Palisades Tunnel** has the meaning set forth in Section 2.2.

**Hudson Tunnel Project** has the meaning set forth in Section 1.2.

**Hudson Tunnel** has the meaning set forth in Section 1.2.

**Hudson Yards Concrete Casing Section 3** or **HYCC-3** has the meaning set forth in Section 1.2. The Hudson Yards Concrete Casing Section 3 has also been referred to as the “West Rail Yard” third section in certain Program materials and information.

**IFRS** has the meaning set forth in Section 2(d) of Appendix 6 (Registration Submittals).

**Key Personnel** means the personnel identified to fill the specific Project roles described in Section 9.2.3(b)(2).

**LIRR** has the meaning set forth in Appendix 12 (Project Stakeholders).

**MTA** has the meaning set forth in Appendix 12 (Project Stakeholders).

**NEC** has the meaning set forth in Section 1.2.

**NEPA** has the meaning set forth in Section 2.4.

**NJ TRANSIT** has the meaning set forth in Section 1.2.

**NYCDEP** means New York City Department of Environmental Protection.

**Palisades Tunnel** has the meaning set forth in Section 2.2.

**PANYNJ** has the meaning set forth in Section 1.2.

**PDA** has the meaning set forth in Section 1.3.2.

**Person** means any individual, corporation, company, partnership, limited liability company, joint venture, trust, unincorporated organization or government (or any agency, instrumentality or political subdivision thereof).

**PLA** has the meaning set forth in Appendix 4 (Anticipated RFP and Project Contract Terms).

**Principal Participant** means (a) each entity comprising the Contractor and (b) each other entity, if any, whose personnel is proposed to be Key Personnel.

**Procurement Schedule** has the meaning set forth in Section 3.2.

**Procurement Portal** has the meaning set forth in Section 4.1.1.

**Program** has the meaning set forth in Section 1.2.

**Project** has the meaning set forth in Section 1.1.

**Project Contract** has the meaning set forth in Section 1.1.

**Project Goals** has the meaning set forth in Section 2.1.

**Project Partners** means Amtrak, PANYNJ, and NJ TRANSIT, collectively, as described in Section 1.2.

**Project Stakeholder** means any Person listed in Appendix 12 (Project Stakeholders).

**Proposal** means the proposal submitted by a Proposer in response to the RFP, which includes a Technical Proposal and a Financial Proposal.

**Proposal Security** has the meaning set forth in Appendix 4 (Anticipated RFP and Project Contract Terms).

**Proposers** has the meaning set forth in Section 3.1(b).

**Protest Officer** has the meaning set forth in Section 7.

**PSNY** has the meaning set forth in Section 1.2.

**Public Records Access Policy** has the meaning set forth in Section 4.4.

**Quality Assurance** means all those planned and systematic actions necessary to provide confidence that the final product will satisfactorily meet the performance requirements of the RFP.

**Quality Control** means the system used to monitor, assess, and adjust production or placement processes to ensure that the final product will meet the specified quality requirements to be specified in the RFP.

**Reference Information Document (RID)** has the meaning set forth in Section 2.5.

**Registration Submittals** has the meaning set forth in Section 8.1(a).

**Relief Events** has the meaning set forth in Appendix 4 (Anticipated RFP and Project Contract Terms).

**Respondent** has the meaning set forth in Section 1.1.

**Respondent Representative** means the individual designated by a Respondent, in the Respondent Team Summary (Form A-1), to serve as its authorized representative for the procurement of the Project and the RFQ Phase, as may be replaced by the Respondent or Proposer, as applicable, from time to time.

**RFP** has the meaning set forth in Section 1.1.

**RFP Phase** the portion of the procurement process for the Project described in Section 3.1(b).

**RFQ** has the meaning set forth in Section 1.1.

**RFQ Phase** the portion of the procurement process for the Project described in Section 3.1(a).

**ROD** has the meaning set forth in Section 2.2.

**ROW** means right-of-way.

**Shortlisted Respondent** has the meaning set forth in Section 1.

**SOQ** has the meaning set forth in Section 1.1. Following a Respondent's submission of an SOQ, all Registration Submittals (as may have been amended by the SOQ) shall be deemed to be incorporated by reference into, and comprise a portion of, the Respondent's SOQ.

**SOQ Due Date** has the meaning set forth in Appendix 2 (Procurement Schedule).

**Specialty Service** has the meaning set forth in Section 5.2.

**Specialty Subcontractor** has the meaning set forth in Section 5.2.

**Surety Letter** has the meaning set forth in Section 5 of Appendix 10 (SOQ Volume 4 – Financial Submittals).

**Technical Proposal** means the portion of a Proposer's Proposal that includes, among other things, its proposed TBM Performance and construction approach for constructing the Project.



**Technical Specifications** refers to a written or electronic textual compilation of provisions and requirements for the performance of the Work, including incorporations by reference.

**Technical Submittals** has the meaning set forth in Section 8.2(b).

**TBM** or **Tunnel Boring Machine** has the meaning set forth in Section 2.2.

**USDOT** means the United States Department of Transportation.

**VDR** or **Virtual Data Room** has the meaning set forth in Section 2.5.

## **APPENDIX 2**

### **PROCUREMENT SCHEDULE**

<b>Procurement Activities</b>	<b>Dates / Times</b>
Issuance of the RFQ	May 31, 2023
Expression of Interest	June 14, 2023, 2 p.m.
Final Date for questions, comments, and requests for clarification	July 17, 2023, 2 p.m.
The Commission's issuance of final Addendum to the RFQ and responses to questions, comments, and requests for clarification about the RFQ	August 11, 2023
Deadline for submission of Registration Submittals by Respondents	August 28, 2023, 2 p.m.
Deadline for SOQ submission by Respondents (" <b>SOQ Due Date</b> ")	September 13, 2023, 2 p.m.
Issuance of notices to Shortlisted Respondents*	October 2023
Issuance of the RFP*	October 2023
Deadline for Proposals for the Project*	April 2024

\* Anticipated dates

## **APPENDIX 3**

### **PROJECT DESCRIPTION**

#### **1. PROJECT DESCRIPTION; CONTRACTOR'S SCOPE**

The Commission intends to deliver the Project through a design-bid-build Best Value method, whereby the Engineer of Record will provide a 100% design and the Contractor will perform all construction work and perform related services as will further be described in the Project Contract and other Contract Documents. The Project scope includes:

Designing, furnishing, clearing, and installing of construction staging laydown areas at the Tonnelle Avenue site and the Hoboken Shaft site,

Performing Pre-Construction Condition Surveys and preparing Construction Impact Assessment Reports ("CIAR") of facilities within the influence of the construction,

Coordinating with local utilities to coordinate any work that affects utility outages and operations in the area of the Work,

Constructing the open cut and portal support of excavation,  
Constructing the construction access road to the Hoboken Shaft site staging area,

Furnishing and installing field office, temporary mechanical and electrical systems for construction support, stormwater and groundwater discharge management systems for drainage and water discharges from surface drainage and mining, maintenance, and protection of traffic.

Coordinating and furnishing temporary construction power for TBMs, ancillary facilities, construction ventilation, lighting, and pumping. Designing and installing temporary emergency power for essential facilities.

Furnishing two new hard rock TBMs and constructing two bored tunnels, with excavation commencing at the tunnel portal at Tonnelle Avenue construction site and mining eastward into the Hoboken Shaft, and furnishing and installing a precast concrete tunnel lining,

Constructing six cross passages in rock, including temporary support of rock and a cast-in-place concrete tunnel lining with a waterproofing membrane system,

Transportation of excavated tunnel material (muck) from the Palisades Tunnels and cross passages through the bored tunnels to the Tonnelle Avenue construction site,

Constructing the Hoboken Shaft, including slurry walls, rock excavation and installing rock support, rock mass grouting at the toe of the slurry walls, around the entire perimeter of the shaft and within the entire shaft invert. (The final lining of the Hoboken Shaft is not included in the Project scope.)

Removing, transporting, temporary storage and disposal of excavated materials, including staging, testing, transporting, and disposal of petroleum-contaminated materials, hazardous materials, and non-hazardous and non-petroleum contaminated materials, to approved disposal facilities.

Providing a facility, furnishings and equipment for the Commission's Representative and staff along with maintenance, utilities, and supplies for the office,

Designing, furnishing, installing, testing, commissioning, operating, maintaining temporary systems, and monitoring safety of the tunnel environment accordance with OSHA, including the following:

- Temporary construction power systems.
- Temporary tunnel ventilation systems.
- Temporary tunnel drainage systems.
- Temporary water supply systems.
- Temporary lighting systems.
- Temporary compressed air systems.
- Temporary communications systems.

Furnishing and installing the works and measures to ensure appropriate environmental compliance, construction dust, noise and vibration control, and mitigation of detrimental effects,

Furnishing, operating, and maintaining sumps, oil separators, sedimentation basins, and water treatment plants, as necessary, to meet NJDEP requirements,

Furnishing and installing site security fences and temporary construction barriers, and noise attenuation barriers,

Coordinating with the follow-on contractor with the use of the Tonnelle Avenue staging area and the Hoboken Shaft staging area and coordinating the handover of the completed work to the follow-on contractor.

## **1.1 PROJECT COMPONENTS**

The Contractor will construct in accordance with the Contract Documents, and the terms and conditions of the RFP.

## **1.2 PROJECT SCHEDULE**

The Work is to be performed within the following defined construction period: Spring 2024 to Spring 2027.

## **2. CONTRACTOR'S ADDITIONAL SCOPE AND RESPONSIBILITIES**

The Contractor shall be responsible for furnishing all labor, material, plant, equipment, services, and support facilities for the Project, in addition to any other items that will be described in the RFP:

- (a) Secure and prepare site access, staging, and project office facilities required to perform the work;
- (b) Required licenses, construction easements, and permits for the Contractor's work, work sites, staging areas, temporary works access, storage areas, and any other impacted areas both on and off the Project site;
- (c) Project construction management.
- (d) Support to the Commission on Project-related public information activities;
- (e) Coordination with Project Stakeholders, other contractors.

- (f) Construction Quality Control and Quality Assurance;
- (g) Environmental mitigation and compliance plan implementation, including monitoring, securing permits and approvals necessary for the work and not acquired by the Commission.
- (h) Additional environmental investigations, permitting, monitoring and investigation associated with or resulting from the Contractor's actions, including staging areas, and other activities necessary for construction;
- (i) Project safety and security;
- (j) Engineering, such as survey, not provided by the Commission but needed for Contractor's means and methods;
- (k) Contaminated materials remediation, if required;
- (l) Record drawings (as-built drawings) of the newly constructed Project components.

### **3. PROJECT TECHNICAL STATUS**

The following list is a summary of the status of the work being completed by the Commission for the Project. This list is indicative and is not comprehensive:

- (a) Topographic Survey: Control surveys will be provided in electronic format during the RFP Phase as RIDs.
- (b) Engineering: Palisades Tunnel horizontal and vertical alignment have been established as part of the planning and will be provided during the RFP Phase.
- (c) Utilities: Utilities are present within the Project site location.
- (d) Right-of-Way: The schedule of the ROW acquisition for the Project will be provided with the RFP.
- (e) Geotechnical Information: The VDR has (i) geotechnical information from subsurface investigation programs related to the Palisades Tunnel, prior programs, and historical data and information and (ii) a Geotechnical Data Report ("**GDR**"). In addition, a Geotechnical Baseline Report ("**GBR**") is being developed for the Palisades Tunnel and will be provided with the RFP.

## **APPENDIX 4**

### **ANTICIPATED RFP AND PROJECT CONTRACT TERMS**

Certain anticipated terms of the RFP and Project Contract are described below. Terms and conditions of the RFP and Project Contract and the parties' responsibilities thereunder—including specifics, conditions, qualifications, and exceptions with respect to the anticipated terms described below—will be set forth in more detail in the RFP. All information in this Appendix 4 is preliminary, provided for informational purposes only, and subject to revision during the RFP Phase. This Appendix 4 will be superseded by the RFP and accompanying form of Project Contract. Respondents and Proposers, as applicable, may not rely on any of the information in this Appendix 4 at any time.

<b>Terms</b>	<b>Current Status and Details of Anticipated Terms</b>
<b>Anticipated Terms for the RFP</b>	
Proposal Evaluation Methodology – Best Value	The Commission intends to select the Proposer whose Proposal offers the best value to the Commission for the completion of the Project. “Best value” will be determined based on, among other things, the Commission’s comprehensive evaluation of qualitative measures (such as technical quality and the extent to which the Proposer will be able to support the Commission’s achievement of the Project Goals) and the Proposer’s price. Evaluation Criteria will be weighted 40% Technical Proposal and 60% Financial Proposal.
Site Visits	The RFP may include an opportunity for Proposers to visit the Project site.
Communications	Proposers may not communicate with Project Partners, Project stakeholders, property owners, permitting agencies, or other third parties regarding the Project during the procurement phase, except with the prior approval of the Commission.
Proposal Security	The RFP will require each Proposer to secure its commitment to enter into the Project Contract on the terms set forth in the final RFP and in its Proposal, if selected to be the Contractor, by submitting a proposal bond (the “ <b>Proposal Security</b> ”) with its Financial Proposal. In accordance with FTA requirements, the aggregate amount of the Proposal Security must be equivalent to 5% of the Proposer’s price.
Protest Procedures	Protest procedures are expected to be substantially similar to those set forth in <u>RFQ Section 7</u> .
<b>Anticipated Terms for the Project Contract</b>	
Effective Date	The Commission currently anticipates executing the Project Contract with the selected Contractor in mid-2024.

Terms	Current Status and Details of Anticipated Terms
Contract Price	<p>This is a fixed price, date-certain contract, to be paid based on the terms set forth in the RFP. The Commission anticipates that certain components of the Work will be paid for on a unit price basis (e.g., linear feet of tunnel lining installed, tons waste disposed) and some activities will be paid for on a lump sum basis (e.g., mobilization, TBM order, TBM delivery, and TBM commissioning). The RFP pricing form will specify which bid items/activities will be priced on a unit price basis versus lump sum amount.</p> <p>The Contractor's Price will only be adjusted by Change Order. The Contractor will be solely responsible for any costs incurred in excess of the Price.</p>
Payment	<p>The Commission intends to make payment to the Contractor for unit priced items as such items are properly placed or installed in the field. The Commission will make progress payments to the Contractor for lump sum activities based on percentage completion of such activities as shown in the Contractor's monthly progress schedule, subject to limitations which will be specified in the RFP.</p> <p>The Contract Price will be lump sum, subject to changes in quantities for such unit priced items, as described above with respect to Contract Price.</p>
Retainage	<p>As security for the Contractor's performance, and in accordance with applicable law, the Commission may retain 5% from each progress payment. At the Commission's discretion, retainage may be reduced after 50% of construction Work is complete.</p>
Mobilization	<p>It is anticipated that the Contractor will be paid for mobilization in an amount equal to the bid item price for mobilization in the Contractor's Proposal, not to exceed 10% and subject to other terms (such as payment in installments) set forth in the RFP.</p>
TBM Mobilization	<p>It is anticipated that the Contractor will be paid for TBM mobilization as set forth in the RFP.</p>

Terms	Current Status and Details of Anticipated Terms
Price Adjustments and Allowances	<p>The RFP will identify any contractual pricing adjustment formulas or stipulated amounts for allowance items which shall be reflected in the Proposal. Items being considered for special pricing terms include Commission-directed supplemental construction costs, weather delays, and substantial changes in materials costs due to changes in law.</p> <p>The pricing for certain work that is impacted by substantial increases in certain costs of materials may be subject to adjustment under the Project Contract. With respect to contractual Price adjustments, the process, formula, and any indices for adjustment will be included in the Project Contract. Adjustments are expected to be contingent on compliance with terms and conditions applicable to relevant Compensation Events, e.g., with respect to timely notice from the Contractor and required documentation (see below).</p> <p>With respect to allowance items, the Project Contract will provide that costs for allowance items in excess of the stipulated amount will be the responsibility of the Commission, and savings from such amounts will be for the benefit of the Commission.</p>
Changes	<p>In accordance with the terms of the Project Contract, the Commission and the Contractor will be permitted to propose changes to the Work (including a value engineering change proposal as described below) by delivering a written notice to the other party setting out the proposed change to the Work. The Contractor will then be required to deliver to the Commission a proposal for implementing the proposed change. If the parties agree on the terms of the proposed change, the parties will execute a Change Order setting forth the agreed terms, which will include agreed adjustments, if any, to the Price and Project completion milestones, and which will fully and finally resolve the Contractor's entitlement to any such adjustment in connection with the change.</p> <p>The Contractor will not be permitted to suspend performance of the Work during the negotiation of any Change Order, except as expressly permitted by the Project Contract.</p>
Value Engineering	<p>The Commission intends to share with the Contractor any substantial direct cost savings which may be generated as a result of a value engineering change proposal offered by the Contractor and approved by the Commission. The purpose of the value engineering process is to encourage the use of the Contractor's ingenuity and experience in arriving at alternative means and methods, and procedures that result in a lower direct cost to accomplish a prescribed function, with the intention of sharing in the resulting savings. The Commission will not accept value engineering change proposals during the procurement phase of this Project. The Contractor may submit value engineering change proposals subsequent to Project Contract execution.</p>



Terms	Current Status and Details of Anticipated Terms
Project Schedule	<p>The Project Contract will include deadlines for the substantial completion of the Project's construction (currently anticipated to be in Spring 2027).</p> <p>The RFP will allow Proposers to propose earlier (but not later) deadlines. Each Proposer's proposed schedule for Project completion is expected to be an important evaluation criterion.</p> <p>The RFP will set forth requirements for the Contractor to develop and manage a detailed critical path schedule to be updated monthly during the Work, which will be used for payment, planning, and monitoring progress of the Work. If the Contractor falls behind the Project's baseline schedule, a recovery schedule to regain lost time will be required.</p>
Liquidated Damages	<p>Liquidated damages may be assessed for delays in meeting the deadline for Substantial Completion and other key milestones. Any delay liquidated damages payable under the Project Contract will be specified in the RFP. It is anticipated that, if payable, delay liquidated damages will be assessed as a specific dollar amount payment for each day Substantial Completion is delayed beyond the deadline.</p>
Performance Incentives	<p>The Project Contract may include incentives should the Contractor achieve specified work milestones.</p>
Good Industry Practice	<p>The Contractor shall construct the Project as designed, in a good and workmanlike manner, free from defects, and in accordance with Good Industry Practice.</p> <p><b>"Good Industry Practice"</b> is the exercise of the degree of skill, prudence, and foresight that would reasonably and ordinarily be expected from a skilled and experienced contractor seeking in good faith to comply with its contractual obligations engaged in the same type of undertaking under circumstances and conditions similar to those within the same geographic area as the Project and which complies with applicable law. Good Industry Practice includes taking reasonable steps to assure sufficient personnel are employed and available to perform the work and such personnel are adequately skilled, experienced, and trained to complete the Work.</p>

Terms	Current Status and Details of Anticipated Terms
Federal Requirements	<p>The Contractor will be required to comply with all requirements applicable to construction projects for which federal funds are expended or other federal aid is employed.</p> <p>Federal requirements are expected to include (among other things):</p> <ul style="list-style-type: none"> <li>• Requirements of domestic buying preference programs such as Buy America and Build America;</li> <li>• Davis-Bacon and related acts, regarding prevailing wages;</li> <li>• Title VI of the Civil Rights Act of 1964, as amended, and other federal civil rights laws, including nondiscrimination and equal employment opportunity requirements; and</li> </ul> <p>49 CFR Part 26, regarding participation by Disadvantaged Business Enterprises (DBEs).</p>
Control of Work	<p>The Contractor is solely responsible for and will have control over Project safety, the construction, and the site, and shall be solely responsible for coordinating all portions of the Work under the Contract Documents, subject, however, to all requirements contained in the Contract Documents.</p> <p>The Contractor shall take all reasonable precautions and be solely responsible for the safety of, and shall provide protection to prevent damage, injury, or loss to, all persons on the site or who would reasonably be expected to be affected by the Work.</p> <p>The Contractor must ensure that all of its activities are undertaken in a manner that will minimize the effect on surrounding property and the public to the maximum extent practicable.</p>
Quality Assurance / Quality Control	<p>The Contractor will be required to plan, implement, and provide a Quality Assurance (“<b>QA</b>”) program for its Project work. The QA program must be developed using current ISO standards. The Commission will review the QA program to assure that it meets guidelines and minimum requirements established in the Technical Specifications. The Contractor must undertake all aspects of quality assurance and quality control for the Project and Work in accordance with the Commission-approved QA program and Good Industry Practice.</p> <p>The Commission will have the right to perform, itself or through a representative, oversight and verification of the work to determine that it is performed in accordance with the Project Contract. Additionally, the Commission will have, at all times, the right to conduct any other oversight respecting any aspect of the Project or the Work to the extent necessary or advisable to comply with FTA and other federal requirements.</p>

Terms	Current Status and Details of Anticipated Terms
Warranties	<p>The Contractor will provide the following warranties:</p> <ul style="list-style-type: none"> <li>(a) The Construction Work shall be free of defects and shall be performed in a good and workmanlike manner in accordance with Good Industry Practice and applicable law;</li> <li>(b) Materials and equipment furnished under the Contract Documents shall be of good quality and, except as otherwise specified or expressly permitted by the Contract Documents, shall be new; and</li> <li>(c) The Work shall meet all of the requirements of the Contract Documents.</li> </ul> <p>The above warranties shall apply to all Work redone, repaired, corrected, or replaced pursuant to the terms of the Project Contract.</p>
Subcontracting	<p>The Contractor will be required to self-perform (by the Contractor entity itself or by its Principal Participants) a minimum of 30% (by dollar value) of the construction Work.</p>
Labor Requirements	<p>The Contractor will comply with labor requirements as specified in the Project Contract. Such requirements will include payment of prevailing wages in accordance with federal requirements.</p> <p>The Commission is assessing whether requiring a project labor agreement (“<b>PLA</b>”) for the project effectuates the Commission’s purpose and best meets its public interests. The Commission will be utilizing a consultant to assist with evaluating the scope of the project and whether requiring a PLA would promote labor harmony, in addition to advancing the skilled labor force, generating cost savings, and enhancing efficiency, quality, safety, and timeliness. The Commission anticipates completing this work in advance of the issuance of the RFP.</p>
Participation by Diverse and Small Businesses	<p>Federal aid requirements under 49 CFR Part 26 will apply to the RFP and Project Contract. Accordingly, DBE participation goals for the Project will be included in the RFP, and compliance with the Commission’s requirements with respect to participation by DBEs and small businesses will be a critical obligation of the Contractor under the Project Contract.</p>
Environmental Compliance	<p>The Contractor will be required to construct, and undertake limited design responsibilities on a case-by-case basis (such as any value engineering proposals), the Project so that it complies with all requirements and conditions (including all mitigation) to be satisfied under applicable laws, NEPA and other environmental documents and governmental approvals, and other standards and policies concerning the environment and hazardous materials that are incorporated as requirements of the Contract Documents. The Contractor will be responsible for the implementation and/or effectuation of all environmental mitigation activities required for the Project, except any mitigation measures that the Commission has expressly reserved for itself or a third party.</p>

Terms	Current Status and Details of Anticipated Terms
Hazardous Materials	The Contractor will be responsible for the handling, containment, transport, removal, remediation, and disposal of Hazardous Materials (known and unknown), except as the Contract Documents may provide otherwise. Responsibility for costs of performing such work will be set forth in the Project Contract. Additional information will be provided in the RFP.
Existing Site Conditions	The Contractor will acknowledge it has received and analyzed site investigations, surveys, and reports provided to Proposers prior to the setting date (before Proposals are due). Additional information regarding site conditions will be provided in the RFP.
Relief and Compensation Events	<p><b>“Relief Events,”</b> for which the Contractor may receive relief from its obligations under the Contract Documents, will be specifically enumerated in the Project Contract and will be subject to terms and conditions set forth therein regarding the availability, type, and extent of relief. Specified Relief Events are expected to be in line with other public design-build transportation projects of similar scope and risk profile and include items such as Commission-caused delays and changes in the Work, force majeure, and discovery of unknown or unusual conditions at the Project site.</p> <p>The Contractor will be relieved from performance obligations as a result of Contractor’s inability to perform due solely and directly to, and during the duration of, a Relief Event. The Contractor will not be excused from compliance with applicable laws or technical requirements due to the occurrence of a Relief Event, except for temporary inability to comply as a direct result of the Relief Event.</p> <p>If applicable, Project Schedule deadlines will be extended by the number of days of delay affecting the critical path (after consumption of available float) that are directly attributable to the Relief Event and that could not be avoided through reasonable mitigation measures.</p> <p>Subject to limitations set forth in the Contract Documents, the Commission will compensate the Contractor for certain increases in costs caused directly by a subset of Relief Events referred to in the Project Contract as <b>“Compensation Events.”</b></p> <p>Adjustments, if any, to the Price and Project completion milestones, and any other relief provided to the Contractor, will be set forth in a Change Order or other written determination issued by the Commission.</p> <p>Details regarding the terms and conditions applicable to Relief Events (including Compensation Events), and the relief available to the Contractor therefor, will be provided in the RFP.</p>

<b>Terms</b>	<b>Current Status and Details of Anticipated Terms</b>
Claims Procedure	Processing and resolution of claims and disputes will be expedited in accordance with the Contract Documents during the progress of the Work. The Contractor's notice of Relief Events or other claims must be provided and sufficiently documented in a timely matter, or they may be waived. Specific time limits for initial notice and complete claim submission will be established by the Project Contract.
Mitigation Requirements	Under all circumstances the Contractor will be obligated to mitigate additional costs, damages, and delays arising from a Relief Event, including by undertaking commercially reasonable mitigation efforts in response any additional information discovered or obtained by any means during the design phase.
Performance and Payment Bonds	The Contractor will be required to obtain performance and payment bonds in accordance with FTA requirements, each in an aggregate amount to be specified in the RFP. Bonds must be provided by acceptable sureties. For a current list of approved sureties, see Department of the Treasury's Listing of Approved Sureties (Department Circular 570), <a href="http://fms.treas.gov/c570/c570.html">http://fms.treas.gov/c570/c570.html</a> .
Insurance	<p>The Contractor will be required by the Project Contract to procure and maintain certain minimum insurance coverages, including, but not limited to, Builders Risk, Professional Liability, and a Contractor Controlled Insurance Program covering commercial general liability (CGL), automobile liability, workers' compensation and employers' liability, contractors' pollution liability, and umbrella/excess liability. The Project Contract may also include requirements with respect to subcontractors' insurance.</p> <p>The Commission and other indemnified parties will be required to be additional insureds on all liability policies, with the exception of the professional liability policy, and additional named insured on the Builders Risk policy.</p>
Commission's Right to Suspend Work	The Commission may order the Contractor to suspend all or any part of the Work for whatever period of time that the Commission deems appropriate. Except for brief suspensions, any such suspension made for the Commission's convenience (and not, e.g., due to a Contractor default or for safety reasons) will be considered a Commission-initiated change.
Commission's Rights to Terminate	The Commission may terminate the Project Contract for cause or convenience.
Dispute Resolution	The Commission will utilize a Dispute Resolution process commensurate with industry best practices associated with a contract of this size and complexity. Additional details will be included in the RFP.

Terms	Current Status and Details of Anticipated Terms
Indemnification	The Project Contract may require, to the extent permitted by law, the Contractor to indemnify, defend, and hold harmless the Commission and other identified indemnitees for claims and losses arising out of performance (or non-performance) of the Work, including for the negligence, culpable act, or breach of the Contractor and related parties, among other things. The scope of the indemnity, including in relation to the negligence of an indemnitee, will be detailed in the RFP, which will provide the terms of the Project Contract.
Limitations on Assignment	The Contractor may not assign its interests in the Project Contract, or delegate any of its duties under the Project Contract, without the Commission's prior written approval (which may be withheld in the Commission's sole discretion).
Governing Law and Jurisdiction	The Project Contract will provide that it be governed by and construed in accordance with the laws of the State of New York without regard to choice of law and conflict of law considerations. The Contractor will be required to irrevocably submit to the jurisdiction of the courts of the State of New York and to the jurisdiction of the courts of the State of New Jersey in regard to any controversy arising out of, connected with, or in any way concerning the Project Contract or Proposal.
Use of Force Account	No NJ TRANSIT or Amtrak force account crafts or units are identified as necessary to complete this scope of work. Nonetheless, flag protection will need to be coordinated with and provided by NJ TRANSIT in the area of NJ TRANSIT's Hudson Bergen Light Rail Tracks (HBLRT) along the route of the construction access road to be built in Hoboken and Weehawken.

## **APPENDIX 5**

### **REGISTRATION SUBMITTAL CHECKLIST**

The “Registration Submittal Reference” column must be completed by the Respondent prior to submission of this checklist to provide cross-references to the page number of the relevant document/information in its Registration Submittals.

<b>Required Registration Submittal</b>	<b>RFQ Reference</b>	<b>Page Limit (if any)</b>	<b>Registration Submittal Reference</b>
<b>Administrative Submittals</b>			
Registration Submittal Checklist ( <u>Appendix 5</u> )	<u>Appendix 6, Section 1(a)</u>	-	
Respondent Team Summary ( <u>Form A-1</u> )	<u>Appendix 6, Section 1(b)</u>	-	
Respondent Member Business Information ( <u>Form A-2</u> )	<u>Appendix 6, Section 1(c)</u>		
Respondent Organizational Chart	<u>Appendix 6, Section 1(d)</u>		
<b>Financial Submittals</b>			
Contractor’s Financial Statements ( <u>Form F-2</u> )	<u>Appendix 6, Section 2</u>	-	
<b>Confidential Financial Submittals (if used)</b>			
Index of the portions of the Contractor’s Financial Statements ( <u>Form F-2</u> ) deemed to be Confidential	Section 6.1(c)	-	
Statement signed by the relevant team member explaining its rationale for designating listed items as Confidential Respondent Information	Section 6.1(c)		

## **APPENDIX 6**

### **REGISTRATION SUBMITTALS**

This Appendix 6 describes the documents and other information comprising the Registration Submittals. The Registration Submittals must contain all the items listed below, each prepared in accordance with the relevant instructions and organized in the sequence listed below.

#### **1. ADMINISTRATIVE SUBMITTALS**

- (a) A completed copy of the Registration Submittal Checklist, a form of which is attached as Appendix 5, completed to provide cross-references to the Respondent's Registration Submittal.
- (b) A completed Respondent Team Summary (Form A-1) that:
  - (i) identifies the individual that is authorized to serve as the Respondent Representative;
  - (ii) provides an overview of the entities that comprise the Respondent and their respective roles; and
  - (iii) describes the anticipated Contractor entity, including each entity that will make up the Contractor.
- (c) Completed Respondent Member Business Information (Form A-2) that provides company-specific information about the Respondent, each of the Principal Participant entities and each Guarantor, as applicable. Each of the foregoing entities must complete its own form. Respondents are advised that submitted Respondent Member Business Information (Form A-2) or any information therein may be publicly released by the Commission.
- (d) An organizational chart that graphically reflects:
  - (i) the entities and Key Personnel comprising the Respondent team (including all Principal Participants and other members identified in the Respondent Team Summary (Form A-1));
  - (ii) the proposed functions on the Project of each Respondent team member; and
  - (iii) contracting/reporting structure among the entities comprising the Respondent.

#### **2. FINANCIAL SUBMITTALS**

The Respondent must submit financial statements for each entity comprising the Contractor and/or each Guarantor of a Contractor entity, as applicable, in accordance with the requirements set forth below. Each Contractor entity must determine, in its discretion, whether to offer the support of and financial information for a Guarantor.

- (a) Required Financial Statements - Respondents must provide financial statements as follows:
  - (i) Consolidated financial statements for a Guarantor and the entity it supports - If an entity intends to receive support from a Guarantor, as evidenced in its Financial Officer's Certificate (Form F-1), and (A) the Guarantor is a direct or indirect parent company of such entity and (B) the Guarantor prepares consolidated financial



statements that include such entity on a consolidated basis, then financial statements should be submitted only for the Guarantor.

- (ii) Separate financial statements for a Guarantor and the entity it supports - If an entity intends to receive support from a Guarantor, as evidenced in its Financial Officer's Certificate (Form F-1), and (A) the Guarantor is not a direct or indirect parent company of such entity; or (B) the Guarantor does not prepare consolidated financial statements that include such entity on a consolidated basis, then separate financial statements should be submitted for each of the Guarantor and the entity it supports.
  - (iii) Annual financial statements - Financial statements for each entity's three most recently completed fiscal years (as applicable), audited by a generally recognized certified public accountant firm, or unaudited annual statements if audited statements have not been produced.
  - (iv) Interim financial statements - Any interim financial statements prepared after the latest annual financial statement (e.g., quarterly and half-yearly).
- (b) Inclusions - Financial statements must include:
- (i) Opinion Letter (Auditor's Report) for annual financial statements;
  - (ii) Balance Sheet;
  - (iii) Income Statement;
  - (iv) Statement of Cash Flows; and
  - (v) Footnotes, as available.
- (c) Additional Requirements - Respondents must also satisfy the follow requirements related to the financial statements:
- (i) All financial statements must be presented in English and as searchable, unlocked PDFs;
  - (ii) All amounts in the financial statements must be presented in their native reported currency; and
  - (iii) Applicable portions of each entity's financial statements must be provided electronically in standard unlocked and unprotected Microsoft Excel workbooks using the template provided in the Financial Statements Template (Form F-2) and the instructions therein as follows:
    - i One workbook should be populated with the balance sheet, income statement and statement of cash flows, for each of the three most recent years and relevant interim period(s) in separate columns, in chronological order, from left to right, in U.S. Dollars; and
    - ii If an entity reports financial statements in another currency, the information required in subclause (i) above must also be provided in a second, separate workbook, in the same format, in the native reported currency.

- (d) GAAP or IFRS - If an entity provides financial statements that are not prepared in accordance with United States Generally Accepted Accounting Principles (“**GAAP**”) or International Financial Reporting Standards (“**IFRS**”), then an explanation of the accounting differences between GAAP or IFRS and the accounting standards used to produce the audited financial statements must be prepared and submitted by a certified public accountant.

## **APPENDIX 7**

### **SOQ CHECKLIST**

The “SOQ Reference” column must be completed by the Respondent prior to submission of this SOQ Checklist to provide cross-references to the location of the relevant document/information in its SOQ.

<b>Required SOQ Submittal</b>	<b>RFQ Reference</b>	<b>Page Limit (if any)</b>	<b>SOQ Reference</b>
<b>SOQ Volume 1 - Administrative Submittals</b>			
SOQ Checklist ( <u>Appendix 7</u> )	<u>Appendix 8, Section 1</u>	-	
SOQ Submittal Letter ( <u>Form A-3</u> )	<u>Appendix 8, Section 2</u>	-	
Updated Administrative Submittals included in the Registration Submittals (if any)	<u>Appendix 8, Section 3</u>		
Certification and Legal Qualifications ( <u>Form A-4</u> )	Appendix 8, Section 4		
Agreement on Terms of Discussion ( <u>Form A-5</u> )	Appendix 8, Section 5		
<b>SOQ Volume 2 – Technical Submittals</b>			
SOQ Checklist ( <u>Appendix 7</u> )	<u>Appendix 9, Section 1</u>	-	
Respondent Experience Executive Summary	<u>Appendix 9, Section 2(a)</u>	3 pages	
Project Descriptions ( <u>Form T-1</u> )	<u>Appendix 9, Section 2(b)</u>	2 per form	
Subcontractor Information ( <u>Form T-2</u> )	<u>Appendix 9, Section 2(c)</u>		
Past Performance ( <u>Form T-4</u> )	<u>Appendix 9, Section 2(d)</u>		
Safety Questionnaire ( <u>Form T-5</u> )	<u>Appendix 9, Section 2(e)</u>		
DBE Performance Record ( <u>Form T-6</u> )	<u>Appendix 9, Section 2(f)</u>		
Key Personnel Experience ( <u>Form T-3</u> )	<u>Appendix 9, Section 3</u>	2 per form and 4 additional pages, if needed (6 max)	

Required SOQ Submittal	RFQ Reference	Page Limit (if any)	SOQ Reference
Respondent Organization and Management Approach	<u>Appendix 6, Section 1(d);</u> <u>Appendix 8, Section 3;</u> <u>Appendix 9, Section 4</u>	10 for Respondent Organization; 10 for Management Approach	
<b>Construction Approach</b>			
Project Understanding	<u>Appendix 9, Section 5</u>	10 for Project Understanding	
Conceptual Work Plan	<u>Appendix 9, Section 6</u>	10 total for Work Plan	
<b>SOQ Volume 3 – Confidential Technical Submittals (if used)</b>			
Technical Submittals deemed to be Confidential Respondent Information (if any)	<u>RFQ Section 6.2(c)</u>		
Index of all Technical Submittals contained in <u>SOQ Volume 3</u>	<u>RFQ Section 6.2(c)</u>		
Statement signed by the Respondent or relevant team member explaining its rationale for designating the Technical Submittals in <u>SOQ Volume 3</u> as Confidential Respondent Information	<u>RFQ Section 6.2(c)</u>		
<b>SOQ Volume 4 – Financial Submittals</b>			
SOQ Checklist ( <u>Appendix 7</u> )	<u>Appendix 8, Section 1;</u> <u>Appendix 10, Section 1</u>		
Copy of Respondent Organizational Chart	<u>Appendix 6, Section 1(d);</u> <u>Appendix 8, Section 3;</u> <u>Appendix 10, Section 2</u>		
Financial Officer's Certificates ( <u>Form F-1</u> )	<u>Appendix 10, Section 3</u>		
Updated or new financial statements (if any)	<u>Appendix 10, Section 4</u>		
Surety Letter(s)	<u>Appendix 10, Section 5</u>		

Required SOQ Submittal	RFQ Reference	Page Limit (if any)	SOQ Reference
Alternative Security Package Submittal (if applicable)	<u>Appendix 10, Section 6</u>		
<b><u>SOQ Volume 5 – Confidential Financial Submittals (if used)</u></b>			
Financial Submittals deemed to be Confidential Respondent Information (if any)	<u>RFQ Section 6.2(e)</u>		
Index of all Financial Submittals contained in <u>SOQ Volume 5</u>	<u>RFQ Section 6.2(e)</u>		
Statement signed by the Respondent or relevant team member explaining its rationale for designating the Financial Submittals in <u>SOQ Volume 5</u> as Confidential Respondent Information	<u>RFQ Section 6.2(e)</u>		

## **APPENDIX 8**

### **SOQ VOLUME 1 – ADMINISTRATIVE SUBMITTALS**

This Appendix 8 describes the documents and other administrative information comprising the Administrative Submittals that are required in SOQ Volume 1. The Administrative Submittals are also summarized in Appendix 7 (SOQ Checklist). An SOQ must contain all the Administrative Submittals listed below, each prepared in accordance with the relevant instructions and organized in the SOQ Volume 1 binder in the sequence listed below. All Forms required below must be completed in accordance with the instructions therein.

#### **1. SOQ CHECKLIST (APPENDIX 7)**

A copy of the SOQ Checklist, a form of which is attached as Appendix 7, completed to provide cross-references to the Respondent's SOQ, must be included in SOQ Volume 1.

#### **2. SOQ SUBMITTAL LETTER (FORM A-3)**

The Respondent shall provide a Submittal Letter (Form A-3).

#### **3. UPDATED ADMINISTRATIVE SUBMITTALS INCLUDED IN REGISTRATION SUBMITTALS**

If any of the information in the Administrative Submittals submitted by the Respondent as Registration Submittals pursuant to Section 1(b) through (d) of Appendix 6 (Registration Submittals) is not, or will not be, complete or accurate as of the date of its SOQ submission, the Respondent shall provide updated versions of the Respondent Team Summary (Form A-1), Respondent Member Business Information (Form A-2) and/or organizational chart, as applicable.

#### **4. CERTIFICATION AND LEGAL QUALIFICATIONS (FORM A-4)**

The SOQ shall include Form A-4, the "Certification and Legal Qualifications," completed and executed by or on behalf of, each of the Respondent, each Principal Participant, and each Guarantor (if any).

#### **5. AGREEMENT ON TERMS OF DISCUSSION (FORM A-5)**

A duly authorized official or representative of the Respondent must execute the Agreement on Terms of Discussion. For Respondents that are joint ventures, partnerships, consortia or other associations, additional copies executed by authorized officials of applicable equity members shall be provided.

## **APPENDIX 9**

### **SOQ VOLUME 2 – TECHNICAL SUBMITTALS**

This Appendix 9 describes the documents and other technical information comprising the Technical Submittals that are required in SOQ Volume 2. The Technical Submittals are also summarized in Appendix 7 (SOQ Checklist). An SOQ must contain all the Technical Submittals listed below, each prepared in accordance with the relevant instructions and organized in the SOQ Volume 2 binder in the sequence listed below.

#### **1. SOQ CHECKLIST**

A copy of the SOQ Checklist, a form of which is attached as Appendix 7 (SOQ Checklist), completed to provide cross-references to the Respondent's SOQ, must be included in SOQ Volume 2.

#### **2. PAST PERFORMANCE**

- (a) Project Descriptions (Form T-1) – The Respondent shall submit a completed Project Description (Form T-1) for each project providing descriptions of three projects from the Respondent and three from each Principal Participant, if different from the Respondent. The project descriptions must, collectively, include the following:
  - (i) At least four, but no more than eight, project descriptions relevant to the scope under the Project; if more than one entity comprises either the Respondent or Contractor performing the tunnel work, provide at least two, but no more than five, project descriptions for each entity; and
  - (ii) Project descriptions should be for the projects having a scope and scale comparable to that anticipated for the Project.
- (b) Subcontractor Information (Form T-2) – The Respondent shall submit a completed Form T-2 to provide information regarding the subcontractors that the Respondent plans to use to perform work on the Project and have been identified as of the date of the SOQ, including any Specialty Subcontractors.
- (c) Past Performance (Form T-4) – The Respondent shall submit a completed Form T-4 for itself and each entity comprising the Contractor performing the tunnel work, regarding the entity's past performance on projects.
- (d) Safety Questionnaire (Form T-5) – The Respondent shall submit a completed Form T-5 for itself and each entity comprising the Respondent, Contractor performing the tunnel work, and relevant Key Personnel regarding the entity's past safety record and current approach to safety on projects.
- (e) DBE Performance Achievement Record (Form T-6) – The Respondent shall submit a completed Form T-6 for itself and each entity comprising the Contractor regarding the entity's past performance with respect to DBE participation on projects.

### 3. KEY PERSONNEL

The Respondent must propose Key Personnel that: (a) have experience on projects of a similar scale, type of work, and complexity as this Project, (b) hold the required qualifications and licenses to perform their anticipated roles; and (c) are proficient in speaking and writing in English. Unless otherwise stated below, the individuals that serve as Key Personnel may be employees of the Respondent, Contractor or subcontractor firms, as applicable. The Respondent or Contractor performing the tunnel work shall not remove or replace Key Individuals proposed as part of this RFQ, without informing the Commission and obtaining written consent of the Commission. The Commission will not consent until the Respondent or Contractor performing the tunnel work has proffered a candidate with equal credentials to that of the previous Key Individual, acceptable to the Commission. The Respondent must submit a completed Key Personnel Experience (Form T-3) for each Key Personnel individual.

Anticipated Project roles, minimum qualifications and license and certification requirements for each Key Personnel are described below.

Key Personnel	Anticipated Project Roles and Minimum Qualifications
Project Manager	<p><u>Project Role:</u></p> <ul style="list-style-type: none"><li>• The Project Manager will represent, make decisions for, and oversee the performance of the work, and be a duly authorized representative of the Respondent.</li><li>• The Project Manager will serve as the Respondent's primary point of contact to the Commission, providing progress updates, construction operation developments, TBM location and subsurface conditions.</li><li>• The Project Manager will be assigned to the Project on a full-time basis.</li></ul> <p><u>Minimum Qualifications:</u></p> <ul style="list-style-type: none"><li>• The Project Manager shall have substantial, progressively responsible experience in design, construction, and management-of-construction of tunneling with approximately 20-ft diameter hard rock TBMs and major underground infrastructure projects with similar or greater size, type of work, nature, and complexity as included in this Project.</li><li>• Such experience in construction and management-of-construction shall include at least three tunneling construction projects each having a construction value in excess of \$200 Million.</li><li>• The Project Manager shall be responsible for meeting Project requirements for safety, quality, environmental compliance, permitting, community relations, coordinating with other works that may be adjacent to the work site or may share the work site, communication with the Commission's Representative, overseeing the coordination of subcontractor's work, coordinating with outside agencies, utilities, railroads, third party interests, and private entities that are directly or otherwise impacted by work of this Project, all in consultation with or by direction from the Commission's Representative.</li></ul>



Key Personnel	Anticipated Project Roles and Minimum Qualifications
	<ul style="list-style-type: none"> <li>• The Project Manager shall be present on a full-time basis at the Project's construction sites.</li> <li>• Has experience with responsibility for construction contract execution.</li> <li>• It is preferred, but not required, that this individual be licensed as a Professional Engineer in the State of New Jersey.</li> </ul>
Construction Manager	<p><u>Project Role:</u></p> <ul style="list-style-type: none"> <li>• The daily work shall be led by a full-time Construction Manager who is qualified to administer the work, who shall be responsible for supervision of all construction work, and procurement of subcontractors and vendors; the Construction Manager shall be an authorized representative of the Contractor.</li> <li>• The Construction Manager shall be responsible for meeting Project requirements for safety, quality, environmental compliance, permitting, community relations, overseeing the coordination of subcontractor's work, coordinating with outside agencies, third party interests, and private entities that are directly or otherwise impacted by work of this Project.</li> <li>• The Construction Manager shall be present and in charge of construction work at the Project's construction sites.</li> <li>• The Construction Manager shall be responsible for coordinating the Work and activities of construction subcontractors, ensuring compliance with safety, quality, security, and environmental requirements.</li> <li>• The Construction Manager shall report to the Project Manager.</li> </ul> <p><u>Minimum Qualifications:</u></p> <ul style="list-style-type: none"> <li>• The Construction Manager's experience in construction and management-of-construction must include at least three rock tunnel projects (similar or greater size, type, and complexity to this Project) with hard rock TBMs in the last 20 years each having a construction value in excess of \$200 Million.</li> <li>• The Construction Manager must have substantial, progressively responsible experience in the management of tunnel construction (greater than 20 feet excavated diameter) of projects with similar size, type of work, and complexity as this Project, including projects with environmental sensitivity, compressed timelines, and community outreach requirements.</li> </ul>
TBM Lead	<p><u>Project Role:</u></p> <ul style="list-style-type: none"> <li>• TBM Lead shall advise on TBM excavation and operation through hard rock with cutterhead and cutter maintenance and ground support of precast concrete segmental tunnel lining.</li> <li>• TBM Lead shall be on-site providing advice during excavation of the TBM tunnels.</li> <li>• TBM Lead may be the Construction Manager provided they meet the experience required for the TBM Lead herein.</li> </ul>

Key Personnel	Anticipated Project Roles and Minimum Qualifications
	<p><u>Minimum Qualifications:</u></p> <ul style="list-style-type: none"> <li>• The TBM Lead's experience in TBM tunnels must include at least four tunnel projects associated with supervising or providing Lead advice for the excavation and support of hard rock TBM tunnels in strong and abrasive rock and precast concrete segmental tunnel lining of similar or greater size, type, and complexity to this Project.</li> <li>• The TBM Lead may be the Construction Manager provided they meet the experience required for the TBM Lead herein.</li> </ul>
Rock Mass Grouting Lead	<p><u>Project Role:</u></p> <ul style="list-style-type: none"> <li>• Rock Mass Grouting Lead shall advise on all aspects of the rock mass grouting and shall be on-site providing advice during placement of the rock mass grouting.</li> </ul> <p><u>Minimum Qualifications:</u></p> <ul style="list-style-type: none"> <li>• Rock Mass Grouting Lead experience shall include a minimum of three projects in the past 20 years that demonstrate experience in rock mass grouting projects of similar scope, size, and type as the Project.</li> </ul>
Slurry Wall Lead	<p><u>Project Role:</u></p> <ul style="list-style-type: none"> <li>• Slurry Wall Lead shall advise on all aspects of the slurry wall installation and shall be on-site providing advice during slurry wall construction.</li> </ul> <p><u>Minimum Qualifications:</u></p> <ul style="list-style-type: none"> <li>• Slurry Wall Lead experience shall include a minimum of three projects in the past 20 years that demonstrate experience in slurry wall construction projects of similar scope, size, and type as the Project.</li> </ul>
Construction Quality Manager	<p><u>Project Role:</u></p> <ul style="list-style-type: none"> <li>• The Construction Quality Manager shall manage quality matters for the Project and have the authority to act in quality matters regarding construction.</li> </ul> <p><u>Minimum Qualifications:</u></p> <ul style="list-style-type: none"> <li>• The Construction Quality Manager shall possess a minimum of 20 years of related quality management experience in heavy construction works in tunnels and underground works with an established record of assignments that demonstrate the candidate's experience as a Quality Manager for a project of the Project's complexity, type, and size.</li> </ul>

Key Personnel	Anticipated Project Roles and Minimum Qualifications
Environmental Coordinator	<p><u>Project Role:</u></p> <ul style="list-style-type: none"> <li>• The Environmental Coordinator shall report directly to the Project Manager and shall be available to the site for the duration of the Project.</li> <li>• The Environmental Coordinator shall be the Contractor's single point of contact for environmental performance, coordination, and reporting issues.</li> <li>• The Environmental Coordinator shall act as the Contractor's main coordinator/liaison for environmental-related issues. The Environmental Coordinator's duties and responsibilities shall include, but not limited to: <ul style="list-style-type: none"> <li>a. Coordinate, review and oversee in preparation of environmental plans, records, and reports.</li> <li>b. Monitor and control the Contractor's environmental-related work activities, including compliance with recycling and waste management plans.</li> <li>c. Ensure the Contractor's compliance with environmental requirements.</li> <li>d. Participate during spot checks and environmental compliance inspections performed by the Commission's Representative. This joint inspection process will be used to help ensure communication, and timely action at the work site.</li> </ul> </li> </ul> <p><u>Minimum Qualifications:</u></p> <ul style="list-style-type: none"> <li>• The Environmental Coordinator must have experience in the environmental industry, which shall include at least five years of tunnel construction experience in dealing with environmental aspects.</li> </ul> <p><u>Licensing, and certification requirements:</u></p> <ul style="list-style-type: none"> <li>• The Environmental Coordinator must have current 40-hour HAZWOPER certification, 8-hour HAZWOPER Refresher, medical monitoring, and knowledge of U.S. Environmental Protection Agency, New Jersey Department of Environmental Protection environmental regulations, standards, and guidance documents.</li> </ul>

Key Personnel	Anticipated Project Roles and Minimum Qualifications
Safety Manager	<p><u>Project Role</u></p> <ul style="list-style-type: none"> <li>• The Safety Manager (SM) shall be responsible for establishing, monitoring, and reporting the Project safety standards and procedures relating to all aspects of the Work.</li> <li>• The Safety Manager sole responsibility shall be the management of all safety matters and shall have the authority to act in safety matters for the Project. The Safety Manager shall lead development of the Construction Safety and Health Plan (CSHP).</li> </ul> <p><u>Minimum Qualifications</u></p> <ul style="list-style-type: none"> <li>• The Safety Manager must possess at least 10 years' experience as a lead safety manager for projects of size, scope, and complexity similar to the Project. The Project Safety Manager shall demonstrate experience with tunnel projects.</li> <li>• The Safety Manager shall have successfully completed the 30-hour <u>Occupational Safety and Health Administration (OSHA)</u> course on Construction Safety and Health, specified in 29 CFR 1926, or have obtained equivalent safety certifications or safety training in lieu of the 30-hour OSHA course and shall be a professional member of the <u>American Society of Safety Professionals (ASSP)</u> or other recognized professional safety organization.</li> </ul>
Diversity and Inclusion Manager	<p><u>Project Role</u></p> <ul style="list-style-type: none"> <li>• The Diversity and Inclusion Manager shall be responsible for reviewing processes and policies to determine if they support diversity and inclusion work, developing and implementing diversity and inclusion initiatives and strategies to achieve the Project's DBE goals, tracking and reporting metrics for the diversity and inclusion programs in accordance with USDOT DBE requirements.</li> </ul> <p><u>Minimum Qualifications</u></p> <ul style="list-style-type: none"> <li>• The Diversity and Inclusion Manager must possess at least three years' experience as a Diversity and Inclusion professional and possess the following: <ul style="list-style-type: none"> <li>a. Awareness of industry specific diversity and inclusion concerns</li> <li>b. Strong written and communication skills</li> <li>c. Familiarity with USDOT DBE regulations, diversity best practices and industry standard practices</li> </ul> </li> </ul>

#### **4. TECHNICAL UNDERSTANDING**

(a) Project Understanding:

The Respondent must provide a narrative description of its understanding of the critical issues relating to the Project. The narrative is limited to a maximum of ten pages and must include the following minimum information:

Based on the information contained in the RFQ, describe your:

- (i) Understanding of the work to be constructed within the Project, including hard rock tunnel projects (greater than 20 feet excavated diameter), temporary support works, slurry wall construction, rock mass grouting, agency coordination and adherence to environmental regulations.
- (ii) Understanding of the Project's scope of work, and how the Respondent Team is positioned and organized to perform the Project's work and meet or exceed the Project Goals.
- (iii) Experience related to the Project scope with preparing and implementing quality control and quality assurance plans and procedures on similar projects.
- (iv) Experience related to the Project scope with preparing and implementing safety plans and procedures on similar projects.
- (v) Experience related to the Project scope on similar projects, discuss risks the Respondent considers the most relevant and critical and your approach to managing the Project's risks. Describe the role that the Respondent expects the Commission or Agencies/Stakeholders may have in addressing these Project risks.
- (vi) Approach to construction of the Project in a strategic manner, and establishing construction means and methods that will deliver the Project on time.
- (vii) Approach to achieving DBE participation throughout the duration of the Project.

(b) Conceptual Work Plan:

The Respondent shall provide a conceptual narrative of the construction approach for the major elements of the Project and provide the relevant firm entity's and Key Personnel's experience of successful past performance from past projects related to these conceptual work plans. Respondent shall indicate construction solutions that reduce risk exposure. Limit the conceptual work plan to a maximum of ten pages including graphics.

#### **5. ORGANIZATION**

(a) Respondent Organization – The Respondent must submit the following information in a clear and concise format that presents the information about the organizational structure of the Respondent team, including the relationships among the various members and Key Personnel:

- (i) Respondents' management approach to delivering the Project that demonstrates how the proposed team will achieve the Project Goals.

- (ii) Proposed organizational chart and project team structure, including Key Personnel, for appropriateness for the successful performance of the work required to deliver the Project.
    - i Organizational Chart shall describe the organization and communication structure among the Respondent team members and Key Personnel, including their reporting relationships, in managing, and constructing the Project.
  - (iii) Key Personnel by name and Project roles and their relationships to the following functions: project management, project administration, tunnel construction with a precast concrete segmental tunnel lining, slurry wall construction, portal support of excavation (“**SOE**”) construction, construction operations, construction management, quality control, safety, Project Stakeholder and environmental compliance, and subcontractor administration.
- (b) Management Approach – The Respondent must provide a narrative description of its management approach to the Project. The narrative is limited to a maximum of five pages and must include the following minimum information:
- (i) Management approach and understanding of the sharing of risks, benefits and responsibilities associated with tunnel projects (greater than 20 feet excavated diameter) which will ensure success for the Project.
  - (ii) Management approach and understanding of how the Respondent’s organization will contribute to the success of the Project and to meeting the Project’s Goals, within the current management capabilities and backlog.
  - (iii) Managerial aspects of the Project regarding satisfactory, timely, and effective manner of construction with sensitivity to Project Stakeholders and environmental and DBE compliance.
  - (iv) Management approach for coordination with the Commission and Project Stakeholders in a cooperative and functional manner to address various Project risks.

## 6. **EXPERIENCE**

- (a) Respondent Experience Executive Summary – The Respondent must provide an executive summary of the background and relevant experience of each of the entities comprising the Respondent (include the Contractor performing the tunnel work, if separate entity(ies)), presenting its expertise, capacity in, and record of producing quality work on projects similar in scope and scale to the Project. Each of the entities may submit separate summaries, and each summary is limited to a maximum of three pages. The summaries shall include the following minimum information, as applicable:
- (i) Experience in successfully completing tunnel projects of similar size and complexity as the Project.
  - (ii) Experience in successfully completing:
    - i Three hard rock tunnel projects each with an actual construction cost in excess of \$200 Million which included:

1. Hard rock tunnels driven by full-face TBM's greater than 20 feet in diameter and longer than 4,000 feet; and
  2. Hard rock tunnels driven by full-face TBM's in rock with uniaxial compressive strength greater than 20,000 PSI.
- ii Three heavy civil construction projects in an urban area including the management, coordination, and supervision of multiple subcontractors and/or performing work in the following subcategories:
1. Underground utilities relocation;
  2. Slurry wall excavation support for access shafts;
  3. Open cut support of excavation (SOE) in soil and rock ;
  4. Soil and rock excavation and disposal;
  5. Geotechnical instrumentation installation and monitoring;
  6. Initial support for tunnels including rock dowels and shotcrete;
  7. Precast concrete segmental tunnel lining and cast-in-place concrete lining for cross passages;
  8. Waterproofing membrane system installation;
  9. Hard rock tunnel boring machine excavation and support with precast concrete segmental tunnel lining
  10. Drill and blast excavation of open excavations and underground excavations.
  11. Rock mass grouting.
- iii Technical and management experience and expertise to plan, organize, execute construction, and assure the quality and safety of the Project.
- iv Discuss how the members of the Respondent Team and their Key Personnel work together and describe any experience working together on past projects. Include project title, project details and project delivery model.

## **APPENDIX 10**

### **SOQ VOLUME 4 – FINANCIAL SUBMITTALS**

This Appendix 10 describes the documents and other financial information comprising the Financial Submittals that are required in SOQ Volume 4. The Financial Submittals are also summarized in Appendix 7 (SOQ Checklist). An SOQ must contain all the Financial Submittals listed below, each prepared in accordance with the relevant instructions and organized in the SOQ Volume 4 binder in the sequence listed below.

#### **1. SOQ CHECKLIST (APPENDIX 7)**

A copy of the SOQ Checklist, a form of which is attached as Appendix 7 (SOQ Checklist), completed to provide cross-references to the Respondent's SOQ, must be included in SOQ Volume 4.

#### **2. ORGANIZATIONAL STRUCTURE**

A copy of the Respondent Team Summary (Form A-1) and the Respondent's organizational chart submitted pursuant to Sections 1(b) and 1(d) of Appendix 6 (Registration Submittals) (as may have been updated in the SOQ).

#### **3. FINANCIAL OFFICER'S CERTIFICATES (FORM F-1)**

Each entity comprising the Contractor and each Guarantor of the foregoing entities must submit a separate Form F-1, completed in accordance with the instructions therein, with all annexes required, and executed by the chief financial officer (or similar financial officer) of such entity.

Each of the Contractor entities must provide its own separate certificate. However, if any such entity has a Guarantor, only one consolidated certificate is required for the Guarantor and its guaranteed entity.

#### **4. UPDATED OR NEW FINANCIAL STATEMENTS**

Each entity comprising the Contractor and each Guarantor of the foregoing entities must submit the following:

- (a) If the entity has already submitted financial statements in accordance with Section 2 of Appendix 6 (Registration Submittals) and it prepared any new audited or unaudited financial statements, including any interim statements, or supplements or revisions to previously submitted financial statements, since the date of its Registration Submittals, provide all such financial statements or supplements or revisions in accordance with the instructions for financial statements in Section 2 of Appendix 6 (Registration Submittals); or
- (b) If the entity has not already submitted financial statements in accordance with Section 2 of Appendix 6 (Registration Submittals) provide all financial statements required in Section 2 of Appendix 6 (Registration Submittals) in accordance with the instructions therein.



## 5. SURETY LETTER(S)

The Respondent must provide duly executed letters from one or more sureties meeting the requirements set forth below (each, a “**Surety Letter**”), evidencing the Contractor’s capability to provide sufficient performance security for the Project.

- (a) Collectively, the Surety Letters must reflect the Contractor’s payment and performance bond amount confirming its single limit and aggregate bonding capacity, as of the SOQ Due Date. If applicable, the Surety Letters may state that the relevant entity has a higher bonding capacity and provide that capacity amount. Any statements regarding the entities having unlimited bonding capacity will not be considered.
- (b) Each Surety Letter must reference that the bonds would be for the Project.
- (c) Surety Letter(s) must state that the surety is familiar with the RFQ and has evaluated the backlog and works in progress of the entities comprising the Contractor in determining their bonding capacity.
- (d) Surety Letter(s) must state that the backlog disclosed in the Financial Officer’s Certificate (Form F-1) is consistent with the surety provider’s understanding of the Contractor(s) actual backlog and works in progress. If surety provider(s) is unable to make this statement, then the Surety Letter(s) must state the amount of backlog last disclosed to it by Contractor(s) and the date of that disclosure.
- (e) Surety Letter(s) must include assumptions or conditions regarding the provision of support, if any.
- (f) Each surety’s current rating must be at least “A” or better and “Class VIII” or better by AM Best Company and evidence of such rating must be attached to the Surety Letter.

The requirement to provide the Surety Letter is solely for the purposes of the evaluation of the Contractor’s financial qualifications and should not be construed as an indication of the security that will ultimately be required for the Project pursuant to the RFP and Project Contract.

## 6. ALTERNATIVE SECURITY PACKAGE SUBMITTAL

The Commission recognizes that bonding cost can be expensive. Accordingly, the Commission will consider Respondent’s recommendations for an alternative security package to be provided under the Project Contract in lieu of traditional payment and performance bonds provided in amounts equal to 100% of the contract price. Such alternative security recommendations shall be submitted by Respondents in the form of an Alternative Security Package Submittal provided with the SOQ as described below.

Each “Alternative Security Package Submittal” shall provide a description of the Respondent’s recommended security package, including perceived benefits of the package to the Project and the rationale for any alternative security instrument or amount. For each proposed alternative, the submittal shall include, at a minimum, the following detail:

- (a) For each alternative security instrument proposed, provide:
  - (i) The name of the security instrument (e.g., low-penalty bond, letter of credit, parent company guarantee, etc.);
  - (ii) The applicable limit, expressed as a percentage of the contract price;

- (iii) The indicative cost, expressed in the rate commonly utilized for pricing such instrument; and
  - (iv) The covered parties (e.g., purchaser, beneficiary, counterparty, etc.); and
- (b) For the overall security package, provide the rationale for use of alternative security, including:
  - (i) The purpose of each instrument included in the package;
  - (ii) Benefits of the package to the Commission, the Contractor, and the Project overall;
  - (iii) The Respondent's opinion as to the adequacy of the proposed package to secure performance under the Project Contract and delivery of the Project; and
  - (iv) Precedent project(s), if any, where a similar package or similar instrument(s) were used, particularly noting and FTA-funded projects and projects of similar size, scope, and complexity.

The RFP will detail the requirements for the security package to be provided by the Contractor under the Project Contract. The bond amounts referenced above should not be construed as an indication of the security that will ultimately be required for the Project pursuant to the RFP and Project Contract. Any security package must, in the view of the Commission and the FTA, adequately protect the interests of the Commission and the federal government. The Commission is under no obligation to allow or accept any alternative security package recommended by a Respondent.

## **APPENDIX 11**

### **CONFLICTED PERSONS**

The following Persons are conflicted and are not allowed to be part of a Respondent's team:

- AECOM Technology Corporation
- DACK Consulting Solutions, Inc.
- Gall Zeidler Consultants
- Hill International
- Ernst & Young Infrastructure Advisors, LLC
- Mercator Advisors LLC
- STV Incorporated
- Turner & Townsend Limited
- WSP USA Inc

## **APPENDIX 12**

### **PROJECT STAKEHOLDERS**

- All stakeholders listed in Chapter 25 of the EIS
- Amtrak
- NJ TRANSIT
- PANYNJ
- State of New York
- State of New Jersey
- USDOT
- FTA
- FRA
- FHWA
- USDOT Build America Bureau
- US EPA
- U.S. Army Corps of Engineers
- City of Hoboken, NJ
- Township of Weehawken, NJ
- Township of North Bergen, NJ
- City of Jersey City, NJ
- City of Union City, NJ
- Town of Secaucus, NJ
- Hudson County, NJ
- City of New York, NY
- Hudson Bergen Light Rail
- Hudson River Park Trust
- NJDEP
- NYSDEC
- New York City Department of Environmental Protection (“**NYCDEP**”)
- New York State Department of Environmental Conservation
- Friends of the High Line
- NYSDOT
- NYCDOT
- Metropolitan Transportation Authority (“**MTA**”)
- Long Island Rail Road (“**LIRR**”)
- NYC Landmarks Preservation Commission
- NYS Department of State
- NYS Office of General Services
- ROW owners and other parties as specified in the RFP

## FORMS

**FORM QF**

**RFQ QUESTION FORM**

**PALISADES TUNNEL; RFQ NO. GDC23-004**

<b>Respondent Name:</b>	
<b>Respondent Representative Name:</b>	
<b>Respondent Representative Contact Details:</b>	<b>Name of Firm:</b> <b>Telephone:</b> <b>E-mail:</b> <b>Business Address:</b>

Respondents must submit all questions and requests for clarification regarding the RFQ in the table below. Do not include any information or statements below that may reveal the identity of the Respondent or any of its team members or any Confidential Respondent Information. Insert additional rows, if needed.

No.	RFQ Section Reference	RFQ Question / Request for Clarification
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

**FORM A-1**

**RESPONDENT TEAM SUMMARY**

**PALISADES TUNNEL; RFQ NO. GDC23-004**

<b>Respondent Name:</b>	
<b>Respondent Representative Name:</b>	(the individual authorized to represent Respondent and receive all communications to the Respondent from the Commission)
<b>Respondent Representative Contact Details:</b>	<b>Name of Firm:</b> <b>Telephone:</b> <b>E-mail:</b> <b>Business Address:</b>

**PRINCIPAL PARTICIPANTS** *(additional rows may be added below)*

Role on Project / Key Personnel Position	Entity Name	
Contractor	[Entity Name]	[% of participation or share in Contractor]
Contractor	[Entity Name]	[% of participation or share in Contractor]
[Other]	[Entity Name]	

**GUARANTORS** *(additional rows may be added below)*

Guarantor Name	Guaranteed Entity
[Guarantor Name]	[Guaranteed Entity Name]
[Guarantor Name]	[Guaranteed Entity Name]

**IDENTIFIED SPECIALTY SUBCONTRACTORS AND OTHER SUBCONTRACTORS**  
*(additional rows may be added below)*

[Entity Name]	[Role on Project / services to be performed]
[Entity Name]	[Role on Project / services to be performed]

#### DETAILS REGARDING ANTICIPATED CONTRACTOR

1. Legal name or proposed name of Contractor	<i>[If name is a “doing business as” or “DBA”, include underlying names]</i>
2. State of organization (or state of expected organization)	<i>[If the Contractor will remain an unincorporated entity, state “N/A”]</i>
3. Entity type	<i>[e.g., corporation, partnership, LLC, unincorporated joint venture]</i>
4. Entities that will hold ownership interests or participate in the joint venture and expected percentages of ownership/participation	



**FORM A-2**

**RESPONDENT MEMBER BUSINESS INFORMATION**

(for Public Release)

**PALISADES TUNNEL; RFQ NO. GDC23-004**

Respondent Name: \_\_\_\_\_

Name of Entity Completing this Form: \_\_\_\_\_

Entity Type: (check one box for the entity completing this Form A-2, as applicable):

☐ Respondent; ☐ Contractor; ☐ Guarantor; ☐ Other Principal Participant

Name of Entity Representative Executing this Form A-2: \_\_\_\_\_

Representative's Title: \_\_\_\_\_

Type of Business Organization (check one):

- ☐ Corporation
- ☐ Partnership
- ☐ Joint Venture
- ☐ Limited Liability Company
- ☐ Other (describe)

Year Established: \_\_\_\_\_ State of Organization: \_\_\_\_\_

Federal Tax ID No. (if applicable): \_\_\_\_\_

North American Industry Classification Code: \_\_\_\_\_

A. Business Address: \_\_\_\_\_  
Headquarters: \_\_\_\_\_  
Office(s) Working on Project: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Contact Telephone Number: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

B. Describe the role of the entity in the space below.

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

C. If the entity completing this Form A-2 is a Guarantor, provide the legal name of the entity for which the Guarantor's support is being provided in the space below.

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

- D. If the entity completing this Form A-2 is a joint venture or newly formed entity (formed within the past two years), complete a separate Form A-2 for each member or partner and attach it to the SOQ. In addition, provide the names of such members or partners in the space below.

---

---

---

---

- E. If the entity has previously operated under any different entity names, trade names or abbreviated names, or has previously operated under a different Federal Tax ID No., provide such names and numbers in the space below.

---

---

---

---

Under penalty of perjury, I certify that the foregoing is true and correct, and that I am an official representative of [*insert name of entity*] duly authorized to execute this Form A-2 on behalf of such entity:

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

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

**FORM A-3**

**SOQ SUBMITTAL LETTER**

**PALISADES TUNNEL; RFQ NO. GDC23-004**

RESPONDENT NAME: \_\_\_\_\_

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

Gateway Development Commission  
Attention: Commission Representative

The undersigned (“**Respondent**”) submits this statement of qualifications (this “**SOQ**”) in response to the Request for Qualifications dated as of September 13, 2023 (as amended, the “**RFQ**”), issued by the Gateway Development Commission (the “**Commission**”) to construct the Palisades Tunnel (the “**Project**”) pursuant to a design-build agreement with the Commission. Capitalized terms not otherwise defined herein shall have the meanings set forth in the RFQ.

Enclosed, and by this reference incorporated herein and made a part of this SOQ, are the following:

- SOQ Volume 1: Administrative Submittals;
- SOQ Volume 2: Technical Submittals;
- SOQ Volume 3: Confidential Technical Submittals;
- SOQ Volume 4: Financial Submittals;
- SOQ Volume 5: Confidential Financial Submittals; and

Respondent understands that all documents and information included in its Registration Submittals shall be deemed to be (a) incorporated by reference into, and construed as part of, the Respondent’s SOQ and (b) Administrative Submittals or Financial Submittals, as applicable, upon the submission of its SOQ. Respondent also confirms that the Financial Submittals provided with the Registration Submittal remains true and accurate, on and as of the date hereof, and to the extent that additional information has become available, Respondent has attached such information into SOQ Volume 4 or 5, as applicable.

Respondent acknowledges receipt, understanding, and full consideration of all materials posted on the Procurement Portal and the following Addenda:

- *[List any Addenda to the RFQ by number prior to executing this Form A-3]*

Respondent represents and warrants that it has read the RFQ and agrees to abide by the contents and terms of the RFQ.

Respondent understands that the Commission is not bound to shortlist any Respondent and may reject each SOQ the Commission may receive.

Respondent further understands that all costs and expenses incurred by it in preparing this SOQ and participating in the Project procurement process will be borne solely by the Respondent, except to the extent of any payment made by the Commission for work product, as described in RFQ Appendix 4 (Anticipated RFP and Project Contract Terms).

Respondent agrees that the Commission will not be responsible for any errors, omissions, inaccuracies, or incomplete statements in this SOQ.

By submission of this SOQ, Respondent, and each person signing this RFQ on behalf of the Respondent, certifies, and each person signing an SOQ document on behalf of Principal Participant certifies as to its own organization, under penalty of perjury, that, to the best of their knowledge and belief, no attempt has been made or will be made by the Respondent (or Principal Participant, as applicable) to induce any other Person to submit or not submit qualifications in response to the RFQ for the purpose of restricting competition.

This SOQ shall be governed by and construed in all respects according to the laws of the States of New Jersey and New York.

Respondent's business address:

_____ (No.)	_____ (Street)	_____ (Floor or Suite)
_____ (City)	_____ (State or Province)	_____ IP or Postal Code) (Country)

State or Country of Incorporation/Formation/Organization: \_\_\_\_\_

Under penalty of perjury, [I / we] certify that the foregoing is true and correct, and that [I am / we are] duly authorized to execute this letter on behalf of [*insert name of entity*]:

[Insert appropriate signature block from following pages]

1. Sample signature block for corporation or limited liability company:

[Insert Respondent's name]

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

2. Sample signature block for partnership or joint venture:

[Insert Respondent's name]

By: [Insert general partner's or member's name]

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

[Add signatures of additional general partners or members as appropriate]

3. Sample signature block for attorney in fact:

[Insert Respondent's name]

By: \_\_\_\_\_

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

Attorney in Fact

4. Sample signature block for a Respondent not yet formed as a legal entity:

[Insert lead team member entity name], on behalf of itself and the other team members expected to be a part of [Insert Respondent's expected name]

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

**FORM A-4**

**CERTIFICATION AND LEGAL QUALIFICATIONS**

**PALISADES TUNNEL; RFQ NO. GDC23-004**

Respondent Name: \_\_\_\_\_

Name of Entity Completing this Form: \_\_\_\_\_

Entity Type: (check one box for the entity completing this Form A-4, as applicable):

☐ Respondent; ☐ Contractor; ☐ Designer; ☐ Other Principal Participant: \_\_\_\_\_;  
or ☐ Guarantor

1. Has the firm or any affiliate\* or any current officer thereof, within the past 10 years, been convicted of or had a civil judgment rendered against them for, or been indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with any bid or other contract-related crimes or violations (e.g., fraud, bribery, collusion, conspiracy, antitrust, etc.), or any other felony or serious misdemeanor related to obtaining, attempting to obtain, performing under, or breach of a public contract?

☐ Yes ☐ No

If yes, please explain:

2. Has the firm or any affiliate\* ever, within the past 10 years, been debarred, suspended, removed, or disqualified from performing work for the federal government or any state or local government?

☐ Yes ☐ No

If yes, please explain, and include the name of the governmental entity and the date(s) of disqualification, removal, debarment, or suspension:

3. Has the firm or any affiliate\* ever, within the past 10 years, been found liable in a civil suit or found guilty in a criminal action for making any false claim or statement or other material misrepresentation to a federal, state, or local governmental entity?

☐ Yes ☐ No

4. Has the firm or any affiliate\* ever, within the past 10 years, had an order, injunction, or lien entered against it in favor of a federal, state, or local governmental entity, including any judgments or liens based on taxes assessed or fines or penalties imposed by a governmental entity?

☐ Yes ☐ No

5. Has the firm or any affiliate\* ever, within the past five years, been adjudicated or finally determined by any court or any federal, state, or local agency to have violated, or pled guilty to having violated, any laws, rules, regulations, or executive orders relating to any of the following?:

- Environmental protection;
- Health and safety requirements;
- Human and civil rights, including laws prohibiting discrimination and relating to affirmative action; and
- Labor laws, including those relating to prevailing wages, hours, and labor standards.

Include citations, notices, violation orders, imposition of fines, and similar agency determinations, to the extent not subsequently overturned, rescinded, or withdrawn, and not currently in dispute resolution (but see Question 7 below).

☐ Yes ☐ No

6. Has the firm or any affiliate\* ever, within the past five years, with respect to any public project in North America with a contract value in excess of \$25 million, been terminated for cause, or been determined, pursuant to a final determination in a court of law, arbitration proceeding, or other dispute resolution proceeding, to be liable for material breach of contract?

☐ Yes ☐ No

7. With respect to each of Questions 1-6 above, if not previously answered or included in a prior response on this form, is any proceeding, claim, matter, suit, indictment, etc., currently pending against the firm that could result in the firm being found liable, guilty, or in violation of the matters referenced in Questions 1-6 above and/or subject to debarment, suspension, removal, or disqualification by the federal government or any state or local government?

☐ Yes ☐ No

If yes, as to each such proceeding, claim, or inquiry, please explain, including providing, as applicable, the name of the governmental entity, the date(s) of the initial claim and any subsequent inquiry or proceeding, the grounds for the same, and an estimate of the time for resolution.

---

\*The term "affiliate" as used in this Form A-4 includes parent companies at any tier, subsidiary companies at any tier, entities under common ownership, and joint ventures and partnerships involving such entities (but, with respect to joint ventures and partnerships, only as to activities of joint ventures and partnerships involving Respondent, any Principal Participant, or any Guarantor as a joint venturer or partner, and not to activities of other joint venturers or partners not involving Respondent, any Principal Participant, or any Guarantor) that, in each case, have, within the past five years, engaged in business or investment in North America.

Under penalty of perjury, I certify that the foregoing is true and correct, and that I am an official representative of [*insert name of entity*] duly authorized to execute this Form A-4 on behalf of such entity:

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

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



**FORM A-5**

**AGREEMENT ON TERMS OF DISCUSSION**

**PALISADES TUNNEL; RFQ NO. GDC23-004**

**AGREEMENT ON TERMS OF DISCUSSION**

The Commission's receipt or discussion of any information (including information contained in any proposal, vendor qualification(s), ideas, models, drawings, or other material communicated or exhibited by us or on our behalf) shall not impose any obligations whatsoever on the Commission, or entitle us to any compensation therefor (except to the extent specifically provided in such written agreement, if any, as may be entered into between the Commission and us). Any such information given to the Commission before, with or after this Agreement on Terms of Discussion ("Agreement"), either orally or in writing, is not given in confidence. Such information may be used, or disclosed to others, for any purpose at any time without obligation or compensation and without liability of any kind whatsoever. Any statement which is inconsistent with this Agreement, whether made as part of or in connection with this Agreement, shall be void and of no effect. This Agreement is not intended, however, to grant to the Commission rights to any matter, which is the subject of valid existing or potential letters patent.

Any information (including information contained in any proposal, vendor qualification(s), ideas, models, drawings, or other material communicated or exhibited by us or on our behalf) provided in connection with this procurement is subject to the provisions of the Commission's Public Records Access Policy, which may be found on the Commission's website at: <https://www.gatewayprogram.org>. The foregoing applies to any information, whether or not given at the invitation of the Commission.

---

(Company)

---

(Signature)

---

(Title)

---

(Date)

ORIGINAL AND PHOTOCOPIES OF THIS PAGE ONLY.  
DO NOT RETYPE.

**FORM T-1****PROJECT DESCRIPTION****PALISADES TUNNEL; RFQ NO. GDC23-004**

Complete a copy of this Form T-1 for each prior project to be described. Maximum of 5 projects per entity comprising Contractor

<b>RESPONDENT Name</b>					
<b>Name of entity</b>					
<b>Role of entity</b>	Contractor:				
<b>Experience (years)</b>	Hard Rock Tunnel		Cross Passages		Piles and obstructions:
<b>If Contractor, the anticipated percentage share of the work on the Project</b>					
<b>DESCRIPTION OF PRIOR PROJECT</b>					
<b>Name of project; total initial contract price</b>			<b>Final value (US\$), inclusive of total approved change orders/other claims</b>		
<b>Location</b>					
<b>Brief description</b>					
<b>Nature of work for which entity was responsible</b>					
<b>Brief description of site conditions</b>					
<b>List any awards or citations received by the project</b>					
<b>Client details (owner / agency/ contractor)</b>	<b>Client Name</b>				
	<b>Address</b>				
	<b>Contact name</b>				
	<b>Telephone</b>				
	<b>Contract Reference #</b>				
<b>% of total work done by entity:</b>		<b>Contract value (US\$) for work done by entity:</b>			
<b>Commencement date:</b>					
<b>Planned completion date:</b>		<b>Actual completion date:</b>			

<b>Number of requests for change orders submitted:</b>		<b>Number and total \$ value of change orders executed:</b>	
<b>Amount of other claims (US\$) paid by project owner:</b>		<b>Number and total \$ value of other claims submitted to project owner:</b>	
<b>Any litigation? (state yes or no)</b>		<b>Any notices of force majeure submitted to project owner? (state yes or no)</b>	
<b>Any notices of termination issued by project owner? (state yes or no)</b>		<b>If any notices of termination were issued by project owner, provide details below</b>	

**FORM T-2**

**SUBCONTRACTOR INFORMATION**

**PALISADES TUNNEL; RFQ NO. GDC23-004**

Instructions for completing this Form T-2:

- The term 'subcontractor' includes consultants.
- At a minimum, list all Principal Participants and Specialty Subcontractors.
- For each subcontractor listed in Form T-2, Table 1, use a separate Form T-2, Table 2 to provide a summary of the relevant experience of the subcontractor.
- Add more rows to Form T-2, Table 1, if needed.

<b><u>Form T-2, Table 1</u>: SUBCONTRACTOR INFORMATION</b>		
<b>Respondent Name</b>		
<b>Name of subcontractor</b>	<b>Address and telephone number</b>	<b>Role and work planned for the Project</b>

To be completed for each subcontractor listed in Form T-2, Table 1 (Maximum of 3 projects and no more than 1 page for each subcontractor):

<b>Form T-2, Table 2: SUMMARY OF SUBCONTRACTOR EXPERIENCE</b>	
<b>Respondent Name</b>	
<b>Subcontractor Name</b>	
<b>Summary of subcontractor's relevant experience</b> (Include scope, size of contract and total construction project cost for specific projects listed)	

**FORM T-3**

**KEY PERSONNEL EXPERIENCE**

**PALISADES TUNNEL; RFQ NO. GDC23-004**

(For each Key Personnel provide one Form T-3 containing the number of projects consistent with the specific Key Personnel requirements outlined in Appendix 9 (SOQ Volume 2 – Technical Submittals), but no more than five projects and using no more than 4 total pages.)

KEY PERSONNEL	RESPONDENT'S RESPONSE
(a) <b>[INSERT PROPOSED ROLE]</b>	[NAME / ENTITY]
(b) Relevant licenses, registrations, certifications, and degrees.	
(c) Total years of professional experience	
(d) Relevant project experience <sup>1</sup>	
<b>Project No. 1</b>	
Project Name and Location	
Description of the Project	
Description of Individual's Role and Responsibilities on Project	
Project Duration (years)	
Individual's person hours working and start/end dates on Project	# of hours:                      From: day/month/year To:                      day/month/year
Project Construction or Design-Build Contract Value (US\$)	
<b>Project No. 2</b>	
Project Name and Location	
Description of the Project	
Description of Individual's Role and Responsibilities on Project	
Project Duration (years)	
Individual's person hours working and start/end dates on Project	# of hours:                      From: day/month/year To:                      day/month/year
Project Construction or Design-Build Contract Value (US\$)	
<b>Project No. 3</b>	
Project Name and Location	
Description of the Project	
Description of Individual's Role and Responsibilities on Project	
Project Duration (years)	
Individual's person hours working and start/end dates on Project	# of hours:                      From: day/month/year To:                      day/month/year

KEY PERSONNEL	RESPONDENT'S RESPONSE
Project Construction or Design-Build Contract Value (US\$)	
<b>Project No. 4</b>	
Project Name and Location	
Description of the Project	
Description of Individual's Role and Responsibilities on Project	
Project Duration (years)	
Individual's person hours working and start/end dates on Project	# of hours:                      From: day/month/year To:                      day/month/year
Project Construction or Design-Build Contract Value (US\$)	
<b>Project No. 5</b>	
Project Name and Location	
Description of the Project	
Description of Individual's Role and Responsibilities on Project	
Project Duration (years)	
Individual's person hours working and start/end dates on Project	# of hours:                      From: day/month/year To:                      day/month/year
Project Construction or Design-Build Contract Value (US\$)	
(e) Up to five project owner references (see requirements below)	(Additional pages may be used)

Requirements for project owner references:

- Provide up to five references of project owners (i.e., public agencies procuring the work) – one for each of the projects listed above. References must be owners or clients for whom the individual has performed project work in the past 12 years and shall not be current or past employers of the individual.
- Provide name of agency and current contact person.
- Provide the following information about each contact person: telephone number, e-mail address; role on the project; history of association with the Key Personnel; Percent time allocated/committed to the project; and for projects outside the U.S., the time zone and English-language capabilities of the persons listed as contacts for the project owner.

**FORM T-4**

**PAST PERFORMANCE**

**PALISADES TUNNEL; RFQ NO. GDC23-004**

Each entity comprising the Contractor must complete this Form T-4 (all tables). Insert additional rows to any table below, if needed.

<b><u>Form T-4, Table 1: CLAIMS FOR SCHEDULE EXTENSION OR COMPENSATION, INCL. FORCE MAJEURE<sup>1</sup></u></b>				
<b>RESPONDENT NAME</b>				
<b>ENTITY NAME</b>				
<b>Project name</b>	<b>Owner / agency / entity that initiated the action</b>	<b>Brief statement of the issue</b>	<b>Resolution / outcome / or outstanding</b>	<b>Current owner details: Contact Name/Phone/Email</b>

---

<sup>1</sup> Provide a list of all claims for a schedule extension longer than 30 days or compensation involving amounts in excess of \$5 million related to performance of a contract involving planning, permitting, design, construction or demolition of a public infrastructure project with a contract value of \$200 million or higher, including any claims relating to force majeure, in which the Contractor entity(ies) have been involved during the past seven (7) calendar years. Include all claims initiated by or against owners and governmental regulatory agencies. Indicate whether the claim was resolved against the participant(s) or its insurers/sureties or resulted in reduction in compensation to the participant. Indicate any unresolved, outstanding claims. Do not include any information in this Form T-4, Table 1 about matters described in Form T-4, Table 2.



<b>Form T-4, Table 2: LITIGATION, DISPUTE PROCEEDINGS and ARBITRATION<sup>2</sup></b>				
<b>RESPONDENT NAME</b>				
<b>ENTITY NAME</b>				
<b>Project name</b>	<b>Owner / agency / entity that initiated the action</b>	<b>Brief statement of the issue</b>	<b>Resolution / outcome / or outstanding</b>	<b>Current owner details: Contact Name/Phone/Email</b>

<b>Form T-4, Table 3: LIQUIDATED DAMAGES<sup>3</sup></b>				
<b>RESPONDENT NAME</b>				
<b>ENTITY NAME</b>				
<b>Project name</b>	<b>Causes and duration(s) of delay(s)</b>	<b>Amount assessed (US \$)</b>	<b>Summary of outstanding damage claims by any owner</b>	<b>Current owner details: Contact Name/Phone/Email</b>

---

<sup>2</sup> Provide a list of all dispute proceedings, litigation and arbitration proceedings involving amounts in excess of \$5 million and related to performance of a contract involving planning, permitting, design, construction or demolition of a public infrastructure project in which any of the Contractor entity(ies) have been involved during the past seven (7) calendar years. Include all dispute proceedings, litigation and arbitration proceedings initiated by or against owners and governmental regulatory agencies. Indicate whether the dispute proceeding, litigation or arbitration proceeding was resolved against the participant(s) or its insurers/sureties or resulted in reduction in compensation to the participant. Indicate any unresolved, outstanding dispute proceedings, litigation and arbitration proceedings.

<sup>3</sup> Describe any contract, which resulted in assessment of liquidated damages against any of the Contractor or entity(ies) involving amounts in excess of \$1 million over the past seven (7) calendar years. Describe the causes of the delays and assessed amounts. Describe any outstanding damage claims by or damages due and owing to any owner/agency.

<b>Form T-4, Table 4: DEFAULT AND TERMINATION<sup>4</sup></b>			
<b>RESPONDENT NAME</b>			
<b>ENTITY NAME</b>			
<b>Project name</b>	<b>Description of reason for termination</b>	<b>Amount involved (US \$)</b>	<b>Current owner details: Contact Name/Phone/Email</b>

<b>Form T-4, Table 5: DISCIPLINARY ACTION<sup>5</sup></b>		
<b>RESPONDENT NAME</b>		
<b>ENTITY NAME</b>		
<b>Project name</b>	<b>Description of action taken</b>	<b>Current owner details: Contact Name/Phone/Email</b>

---

<sup>4</sup> Describe the conditions surrounding any contract (or portion thereof) entered into by any of the Contractor or entity(ies) over the past 7 calendar years that (a) has been terminated for cause or default or other reason earlier than its original expiry date, (b) for which the relevant entity received or issued a notice of default or termination, regardless of whether the contract was ultimately termination, or (c) which required completion by third-party. Describe the reasons for termination, notice, or third-party completion and the amounts involved.

<sup>5</sup> Indicate any disciplinary action taken against any of the Contractor or entity(ies) within the past 7 years by any governmental agency or licensing board, including suspension from the right to propose or removal from any qualified list.

**FORM T-5**

**SAFETY QUESTIONNAIRE**

**PALISADES TUNNEL; RFQ NO. GDC23-004**

Complete Form T-5, Table 1 for each of the Key Personnel indicated below.

<b><u>Form T-5, Table 1: SAFETY QUESTIONNAIRE FOR RESPONDENT</u></b>						
<b>RESPONDENT NAME</b>						
Indicate the safety record on the most recent project to which the indicated Key Personnel were assigned.						
<b>KEY PERSONNEL</b>	<b>NAME OF MOST RECENT PROJECT</b>	<b>Total hours by all employees on that project (hours)</b>	<b>Number of lost workday cases on that project (number)</b>	<b>Number of restricted workday cases on that project (number)</b>	<b>Number of cases with medical attention only, on that project (number)</b>	<b>Number of fatalities on that project (number)</b>
<b>Project Manager</b>						
<b>Construction Manager</b>						
<b>TBM Lead</b>						
<b>Rock Mass Grouting Lead</b>						
<b>Slurry Wall Lead</b>						
<b>Construction Quality Manager</b>						
<b>Environmental Coordinator</b>						
<b>Safety Manager</b>						
<b>Diversity and Inclusion Manager</b>						

Complete a copy of Form T-5, Table 2 for the Respondent and each entity comprising the Contractor.

<b>Form T-5, Table 2: SAFETY QUESTIONNAIRE FOR CONTRACTOR</b>					
<b>RESPONDENT NAME</b>					
<b>ENTITY NAME</b>					
<b>ITEM 1</b> Provide the following information for the past 5 years:			<b>2018-2022</b>		
Total number of employee hours worked (hours) Do not include non-work time, even though paid.					
Number of lost workday cases (number)					
Number of restricted workday cases (number)					
Number of cases with medical attention only (number)					
Number of fatalities (number)					
<b>ITEM 2</b> (Insert additional rows if needed) Are internal accident reports and report summaries sent to management? To what levels of management are accident reports/summaries sent, and how frequently?					
Management level	Sent?		If yes, frequency sent:		
	NO	YES	Monthly	Quarterly	Annually

**Form T-5, Table 2: SAFETY QUESTIONNAIRE FOR  
EACH CONTRACTOR ENTITY**

**RESPONDENT NAME**

**ENTITY NAME**

**ITEM 3**

**Do you hold site meetings for supervisors?**

**YES:**

**NO:**

**How often do you hold site meetings for supervisors?**

**Weekly:**

**Twice a month:**

**Monthly:**

**Other (specify):**

**ITEM 4**

**Do you conduct Project Safety Inspections?**

**YES:**

**NO:**

**How often do you conduct Project Safety Inspections?**

**Weekly:**

**Twice a month:**

**Monthly:**

**Other (specify):**

**ITEM 5**

**Does the entity have a Written Safety Program?**

**YES:**

**NO:**

**ITEM 6**

**Does the entity have an Orientation Program for new hires?**

**YES:**

**NO:**

**If yes, what safety items are included in the Orientation Program for new hires? (describe below)**

**Form T-5, Table 2: SAFETY QUESTIONNAIRE FOR  
EACH CONTRACTOR ENTITY**

**RESPONDENT NAME**

**ENTITY NAME**

**ITEM 7**

Does the entity have a program for newly hired foremen and newly promoted foremen?

YES:

NO:

If yes, does the program for newly hired or promoted foremen include the following topics?

Safety work practices

YES:

NO:

Safety supervision

YES:

NO:

On-site meetings

YES:

NO:

Emergency procedures

YES:

NO:

Accident investigation

YES:

NO:

Fire protection and prevention

YES:

NO:

New worker orientation

YES:

NO:

**ITEM 8**

Does the entity hold safety meetings that extend to site laborer level?

YES:

NO:

If yes, how often do you hold safety meetings that extend to site laborer level?

Daily:

Weekly:

Twice a month:

Other (specify):

**ITEM 9**

Experience Modification Rate ("EMR") for the previous three (3) years. If the rate exceeds 1.2, a written explanation should be provided.

**FORM T-6**

**DBE PERFORMANCE RECORD**

**PALISADES TUNNEL; RFQ NO. GDC23-004**

Complete this Form T-6 for each entity comprising the Contractor.

<b><u>Form T-6, Table 1: DBE PERFORMANCE RECORD</u></b>			
<b>RESPONDENT NAME</b>			
<b>ENTITY NAME</b>			
<b>ROLE OF ENTITY</b>	Contractor:		
	Other (describe):		
<p>Provide the information requested below for projects completed within the years 2019, 2020, 2021, 2022 and 2023 where the entity was the prime contractor or prime consultant. Insert more rows below if needed.</p> <p>For any project where a DBE goal was not achieved, use <u>Form T-6, Table 2</u> to provide an explanation, using relevant project name for cross-reference.</p>			
<b>PROJECT NAME</b>	<b>DBE participation goal (%)</b>	<b>DBE participation achieved (%)</b>	<b>Current Owner Contact (Name, Telephone, Email)</b>

**Form T-6, Table 2: EXPLANATION FOR NON-ATTAINMENT OF DBE GOALS**

**RESPONDENT NAME**

**ENTITY NAME**

For any project listed in Form T-6, Table 1 for which the DBE goal was not achieved, provide a maximum ½ page explanation below. Insert more lines and rows below if needed.

<b>PROJECT NAME</b>	<b>BRIEF EXPLANATION (maximum ½ page per project)</b>



**FORM F-1**

**FINANCIAL OFFICER'S CERTIFICATE**

**PALISADES TUNNEL; RFQ NO. GDC23-004**

*[Complete a separate Form F-1 for each entity comprising the Contractor and each of its Guarantor, if any.]*<sup>1</sup>

I, [Name], the [Title] of [Name of Contractor Entity] (the "**Company**") [and the [Title] of [Name of Guarantor] (the "**Guarantor**")], do hereby certify as of [Date]<sup>2</sup> that:

- (a) This certificate is being executed and delivered in connection with the Statement of Qualifications (the "**SOQ**") submitted by [Respondent Name] (the "**Respondent**") in response to the Request for Qualifications No. GDC23-004 for the Palisades Tunnel 1 (the "**Project**"), May 31, 2023 (as amended, the "**RFQ**"), issued by the Gateway Development Commission (the "**Commission**"). Capitalized terms used but not defined herein shall have the meanings set forth in the RFQ.
- (b) As to the matters herein set forth below, I either have personal knowledge or have obtained information from officers or employees of the [Company] [and the Guarantor] in whom I have confidence and whose duties require them to have personal knowledge thereof. I make the certifications herein to the Commission pursuant to the requirements of the RFQ with the intent and understanding that they will be relied upon by the Commission as a basis for the evaluation of the Respondent's SOQ.
- (c) **Guarantor Support:** It is the intention of the Guarantor to support the Company with the financial, human resources and other support needed by the Company to successfully satisfy its obligations in respect of the Project if the Respondent were to become the Contractor.]<sup>3</sup>
- (d) **Financial Statements:** The audited financial statements provided by [the Company] [the Guarantor] in the Respondent's Registration Submittals and/or the SOQ, as applicable, for the fiscal years ended [\_\_\_], [\_\_\_] and [\_\_\_] [and the interim financial statements for the following periods [\_\_\_] and [\_\_\_]] are complete and correct copies thereof. Where [the Company] [the Guarantor] has provided unaudited financial results, such financial results present fairly, in all material respects, the financial position and results of operations and cash flows of [the Company] [the Guarantor and its consolidated subsidiaries, including the Company,] as of such dates and for such periods. [The Company] [The Guarantor] has no

---

<sup>1</sup> Each of the Contractor entities in the Respondent team should provide its own separate certificate. If any such firm is proposing a Guarantor and consolidated financial statements are provided by the Guarantor on behalf of itself and its guaranteed entity, then such entity may (but is not required to) submit one consolidated Financial Officer's Certificate for the Guarantor and such entity, as contemplated by this Form. If a Guarantor and its guaranteed entity are submitting separate financial statements, then each of the Guarantor and the entity must submit separate Financial Officer's Certificates, which may be updated as applicable. If an entity has no Guarantor, all references to "Guarantor" should be deleted from this certificate.

<sup>2</sup> Date must not be earlier than seven calendar days prior to the SOQ deadline.

<sup>3</sup> Delete if there is no Guarantor and not applicable.

material contingent liabilities or unusual forward or long-term commitments not disclosed therein.<sup>4</sup>

- (e) **Off-Balance Sheet Liabilities:** The [Company] [Guarantor] does not have any material off-balance sheet liabilities [other than as described in the financial statements referred to above] [other than the following: [\_\_\_\_\_]].
- (f) **Financial Information Summary:** Attached hereto as Annex A is a completed Company [and Guarantor] Information Summary relating to [the Company] [and] [the Guarantor]. All the information provided in the attached Annex A is complete and correct to the best of my knowledge.
- (g) **Bankruptcy/insolvency proceedings:** There has been no Insolvency Event relating to the Company [or Guarantor] or any person or entity which directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, the Company [or Guarantor] which has occurred within the most recent three fiscal years (whether or not such proceeding was ultimately dismissed).] [Attached hereto as Annex B is a detailed description of an Insolvency Event relating to [Entity Name].<sup>5</sup>

For the purposes of this certification, Insolvency Event means any voluntary or involuntary bankruptcy, insolvency, liquidation, restructuring, suspension of payments, scheme of arrangement, appointment of provisional liquidator, receiver or administrative receiver, resolution or petition for winding-up or similar proceeding, under any applicable law, in any jurisdiction.

- (h) **Material Changes in Financial Condition:** No material change in the financial condition of the Company [or Guarantor] has occurred or is projected to occur, as applicable (i) within the most recently completed three fiscal years that is not reflected in the its audited financial statements; (ii) since the date of its audited financial statements for its most recently completed fiscal year; or (iii) during the next fiscal quarter following the date of the SOQ.] [Attached hereto as Annex C is a detailed description of material changes in the financial condition of [the Company] [the Guarantor].<sup>6</sup>

---

<sup>4</sup> For entities that do not prepare audited financial statements, Respondents should submit a question to the Commission by the last day for RFCs indicated in the RFQ Schedule, outlining proposed information that would provide similar support to audited financial statements to seek confirmation of its appropriateness by the Commission. Information Respondent considers confidential should be submitted in accordance with RFQ Sections 45 and 6.2 and will be subject to the limitations and conditions set forth therein.

<sup>5</sup> Complete the appropriate certification. Delete the sentence that is not applicable. Do not provide an Annex B if there is no Insolvency Event to disclose.

<sup>6</sup> Complete the appropriate certification. Delete the sentence that is not applicable. Do not provide an Annex C if there is no material change in financial condition to disclose. Further instructions regarding material changes are provided in Annex C.

IN WITNESS WHEREOF, the undersigned is the [*Chief Financial Officer, Treasurer or equivalent officer*] of the [Company] [Guarantor] and has duly executed this certificate as of the date first written above.

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

**ANNEX A TO FINANCIAL OFFICER'S CERTIFICATE**  
**Company [and Guarantor] Information Summary**

**ENTITY NAME:** \_\_\_\_\_

**ROLE ON PROJECT:** [Contractor] [Guarantor of Contractor]

<b>SHAREHOLDER<sup>1</sup></b>	<b>INTEREST (%)</b>
[Shareholder name]	
[Number of current shareholders, equity members partners or equivalent that have a holding of 15% or greater]	

<b>PIPELINE OF WORK</b>	
Total contract value (\$M) of the Company's backlog of construction projects, as of the date of the Financial Officer's Certificate	
Total value (\$M) of the Company's anticipated backlog of construction work, as of the date that is 2 years from the date of the Financial Officer's Certificate, excluding the value of any new construction contracts executed by the entity during the 2-year period between such dates	
Number of projects currently being pursued by the Company where its share of the construction value is exceeds \$500 million <sup>2</sup>	

---

<sup>1</sup> List current shareholders, equity members partners or equivalent holding a 15% or greater interest in the Company (indicate their percentage interest), as well as those having the right to appoint one or more board director(s). If such interest is held by a holding company, a shell corporation or other form of intermediary, also identify the ultimate or parent entity.

<sup>2</sup> This includes projects where the Contractor: (i) submitted bids for and has not yet executed contracts on, or (ii) reasonably expects to submit bids for.

<b>RATING AGENCY<sup>3</sup></b>	<b>CURRENT RATING</b>	<b>PREVIOUS RATING</b>	<b>DATE OF CHANGE IN RATING</b>
[Rating agency name]			
[Debt of the [Company] [Guarantor] is not rated by any major credit rating agency.]			
[Company][Guarantor] has no debt]			

---

<sup>3</sup> If applicable, list all credit ratings available for the company and provide a copy of the most recent credit report.

**ANNEX B TO FINANCIAL OFFICER'S CERTIFICATE**

**Insolvency Event**

***[PROVIDE DETAILS]***

## ANNEX C TO FINANCIAL OFFICER'S CERTIFICATE

### Material Change in Financial Condition

***[PROVIDE DETAILS]***

#### INSTRUCTIONS TO RESPONDENTS REGARDING ANNEX C:

If applicable, this Annex C must include the following details regarding material changes in the Company or Guarantor's financial condition:

- (1) A description of each material change, actual and projected, and any related changes or disruptions in executive management;
- (2) Actual and projected impacts on the affected entity's organizational and financial capacity and its ability to remain engaged in this procurement and submit a responsive proposal; and
- (3) A detailed description of any other projected impacts, positive and negative, of the changes experienced and anticipated to be experienced in the periods ahead, including the likelihood that the circumstances of the change or impacts thereof will continue during the Project term.

Estimates of the impact on revenues, expenses and the change in equity must be provided separately for each material change. References to the notes in the financial statements are not sufficient to address the requirement to discuss the impact of material changes. Where a material change will have a negative financial impact, the affected entity must describe measures that would be undertaken to insulate the Project from any recent material changes and those currently in progress or reasonably anticipated in the future. If its financial statements indicate that expenses and losses exceed income in each of the three completed fiscal years (even if there has not been a material change), the affected entity must describe measures that will be undertaken to make the entity profitable in the future and an estimate of when the entity will be profitable.

Set forth below is a list of examples of what the Commission considers to be a material change in financial condition. At the discretion of the Commission, any failure to disclose a prior or pending material change may result in disqualification from the procurement process:

- (a) A change in the tangible net worth of 10% or more of net assets;
- (b) A sale, merger or acquisition exceeding 10% of the value of net assets prior to the sale, merger or acquisition which in any way involves the affected entity or its parent company or Guarantor;
- (c) A change in credit rating for the affected entity or its parent company or Guarantor;
- (d) Inability to meet material conditions of loan or debt covenants by the affected entity or its parent company or Guarantor that has required or will require a waiver or modification of agreed financial ratios, coverage factors or other loan stipulations or additional credit support from shareholders or other third parties;

- (e) In the current and three most recent completed fiscal years, the affected entity or its parent company or Guarantor: (i) incurred a net operating loss; (ii) sustained charges exceeding 5% of the then net assets due to claims, changes in accounting, write-offs or business restructuring; or (iii) implemented a restructuring/reduction in labor force exceeding 5% of employees or involved the disposition of assets exceeding 10% of the then-net assets; and
- (f) Other events known to the affected entity that represent a material change in financial condition over the past three years, or which may be pending for the next reporting period.



## **FORM F-2**

### **FINANCIAL STATEMENTS TEMPLATE**

#### **PALISADES TUNNEL; RFQ NO. GDC23-004**

*(An electronic version of this Form F-2 will be made available to Respondents as a Microsoft Excel file with the RFQ)*

#### **INSTRUCTIONS FOR FORM F-2**

[ ]

[Lead Contractor / Guarantor for Lead Contractor]

Entity's Name

[ ]

Entity's Role

[Lead Contractor / Guarantor for Lead Contractor]

#### **OVERVIEW**

The Financial Statements Template is an excel workbook comprised of the following four sheets.

- 1) Instructions
- 2) Income Statement ("P&L")
- 3) Cashflow Statement ("CFS")
- 4) Balance Sheet ("BS")

Each entity required to submit financial statements and Form F-2 in accordance with the RFQ submittal requirements must populate the Income Statement, Cashflow Statement and Balance Sheet ("**Statement Tabs**") in this workbook with information matching its financial statements

#### **DETAILED INSTRUCTIONS**

For each **Statement Tab**:

- a) Populate with information from the relevant sheets in their submitted financial statements in USD and note the exchange rate assumed.
- b) If financial statements are prepared and provided in USD, the information in the **Statement Tabs** should exactly match the submitted financial statements. If financial statements are prepared and provided in another currency, the Respondent should include two Form F-2s in the submittal - one in USD and one in the reported native currency.
- c) Each of the time periods submitted (i.e. three full fiscal years and the latest partial period) should all be captured on the same sheet and each time period should have its own column.

#### **ADDITIONAL DISCLOSURE, ADJUSTMENTS AND EXTROADINARY ITEMS**

1. The Statement Tabs must exactly match each entity's financial statements. Respondents may provide additional detail and financial information in the Notes and Other items section of each sheet in this workbook for consideration by the Commission. Items that could be included here could include one-off/ abnormal items or other adjustments that the Commission should consider when performing its review of the financial information.
2. Further, the Balance Sheet requires additional liquidity disclosures that must be completed.

## INCOME STATEMENT

[ ]

[Lead Contractor / Guarantor for Lead Contractor]

Presentation Units	USD Millions	USD Millions	USD Millions	USD Millions	
Period	[Annual]	[Annual]	[Annual]	[Quarter / Half]	
Period Ending	[Fiscal year end date]	[Fiscal year end date]	[Fiscal year end date]	[Latest partial year]	Notes
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	

### Notes/ Other items

[Item 1]	[Input]	[Input]	[Input]	[Input]	Explanation with reference to financial statement section and page if applicable
[Item 2]	[Input]	[Input]	[Input]	[Input]	Explanation with reference to financial statement section and page if applicable
[Item 3]	[Input]	[Input]	[Input]	[Input]	Explanation with reference to financial statement section and page if applicable
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	Explanation with reference to financial statement section and page if applicable

CASHFLOW STATEMENT

[ ]

[Lead Contractor / Guarantor for Lead Contractor]

Presentation Units	USD Millions	USD Millions	USD Millions	USD Millions	Notes
Period	[Annual]	[Annual]	[Annual]	[Quarter / Half]	
Period Ending	[Fiscal year end date]	[Fiscal year end date]	[Fiscal year end date]	[Latest partial year]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	

Notes/ Other items					
[Item 1]	[Input]	[Input]	[Input]	[Input]	Explanation with reference to financial statement section and page if applicable
[Item 2]	[Input]	[Input]	[Input]	[Input]	Explanation with reference to financial statement section and page if applicable
[Item 3]	[Input]	[Input]	[Input]	[Input]	Explanation with reference to financial statement section and page if applicable
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	Explanation with reference to financial statement section and page if applicable

## BALANCE SHEET

[ ]

[Lead Contractor / Guarantor for Lead Contractor]

Presentation Units	USD Millions	USD Millions	USD Millions	USD Millions	
Period	[Annual]	[Annual]	[Annual]	[Quarter / Half]	
Period Ending	[Fiscal year end date]	[Fiscal year end date]	[Fiscal year end date]	[Latest partial year]	Notes
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	

## Additional liquidity disclosures

Unencumbered cash and cash equivalents <sup>1</sup>		[Input]	[Input]	
Undrawn debt capacity available for discretionary uses <sup>2</sup>		[Input]	[Input]	

<sup>1</sup> Provide the amount of unencumbered cash and cash equivalents the entity could apply to other projects/ initiatives.<sup>2</sup> Provide the amount of committed, undrawn and available debt proceeds that the entity could apply to finance other projects/ initiatives.

## Notes/ Other items

[Item 1]	[Input]	[Input]	[Input]	[Input]	Explanation with reference to financial statement section and page if applicable
[Item 2]	[Input]	[Input]	[Input]	[Input]	Explanation with reference to financial statement section and page if applicable
[Item 3]	[Input]	[Input]	[Input]	[Input]	Explanation with reference to financial statement section and page if applicable
[Add as necessary]	[Input]	[Input]	[Input]	[Input]	Explanation with reference to financial statement section and page if applicable