

**REQUEST FOR PROPOSALS**  
**TO**  
**DESIGN AND CONSTRUCT**  
**THE**  
**SR 32 PROGRESSIVE DESIGN-BUILD PROJECT**  
**THROUGH A**  
**PROGRESSIVE DESIGN-BUILD AGREEMENT**  
**A PROJECT OF THE**  
**INDIANA DEPARTMENT OF TRANSPORTATION**



**REQUEST FOR PROPOSALS**

**RFP #: PD2402**

**ISSUED: October 9, 2024**

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## SECTION 1 INTRODUCTION AND GENERAL INFORMATION

### 1.1 Introduction

This Request for Proposals (“RFP”) is issued by the Indiana Department of Transportation (the “Department”) to seek competitive proposals (individually, a “Proposal” and collectively, “Proposals”) for a progressive design-build project through a progressive design-build agreement (“Progressive Design-Build Agreement”, or “Agreement”). This RFP is issued further to the notice of anticipated issuance, dated July 18, 2024, and the draft RFP issued July 29, 2024 by the Department. Upon execution, the Agreement will provide that the Apparent Selected Proposer (as defined in Section 5.6 (Final Scoring and Announcement) and such party upon execution of the Agreement being the “Progressive Contractor” shall develop, design, and potentially construct the SR 32 Progressive Design-Build project (the “Project”). The form of Agreement is included as Volume II of the RFP. The legal entity desiring to enter into the Agreement (individually, a “Proposer” and collectively, “Proposers”) is invited to submit a Proposal. The Proposer shall comply with the requirements set forth within this RFP during the procurement. The Proposer shall also take into consideration the Project goals identified in Section 1.3 (Project Goals) in drafting its Proposal.

It is anticipated that the Proposer will include, as part of its team, the Lead Contractor, Lead Designer, Key Personnel Firms, and any entities required for the team to meet the Project prequalification requirements described in Section 3.5 (Department Prequalification) (such parties, together with any other firms listed on Form C (Identified Contractors), being the “Identified Contractors”). The Proposer shall provide certain items as required in this RFP.

All times in this RFP are Eastern Time. Capitalized terms and acronyms not otherwise defined herein are defined in Agreement Exhibit A (Acronyms, Abbreviations, Definitions, and Submittals).

### 1.2 RFP Documents

#### 1.2.1 Documents Comprising the RFP

The RFP consists of these instructions to Proposers and the attachments and forms hereto. For avoidance of doubt, the RFP includes the form of Progressive Design-Build Agreement (including its exhibits and attachments), attached as Attachment A (Form of Agreement).

#### 1.2.2 RFP Amendments

The Department reserves the right to revise, modify, or change the RFP and procurement at any time before the Proposal Due Date (as set forth in Section 1.5 (Procurement Schedule)) or thereafter as described in Section 4.1 (General Submittal and Format Requirements) (each a “RFP Amendment”).

#### 1.2.3 Errors

If any mistake, discrepancy, deficiency, ambiguity, error, or omission is identified in any of the documents by a Proposer at any time during the procurement, the Proposer shall notify the Department, and is encouraged to suggest a recommended correction, in writing in accordance with Section 2.5 (Questions and Responses Regarding the RFP).

### **1.2.4 Reference Information Documents**

Additional information that may prove helpful to the Proposer in understanding the Project will be made available from time to time as Reference Information Documents (“RIDs”) or RIDs updates. The Department has not determined whether any documents included in the RID are accurate, complete, or pertinent. The RIDs are provided for information only and are not currently envisioned to become part of the Agreement.

### **1.3 Project Goals**

The Department has identified the following goals for the Project:

- (1) Maximize use of the Project budget to provide the best value to the Department;
- (2) Minimize impacts to the natural and built environment;
- (3) Incorporate innovative project management processes to maximize efficiency;
- (4) Realize the benefits of progressive design-build project delivery;
- (5) SR 32 open to traffic by October 1, 2026; and
- (6) Remain flexible to react to development demands such as traffic, utilities, and requests for changes and new access points off SR 32 during the Preconstruction Phase and Construction Phase.

### **1.4 Project Description and Status**

The Project is located in Boone County (Des. No. 2301580) and includes the design and construction for the realignment of approximately four miles of SR 32 from 4.47 miles west of I-65 (CR 500 W) to 0.37 miles west of I-65.

The Department anticipates completing the Project engineering report in Q4 2024. The Project engineering report is expected to include preliminary information such as traffic analysis and forecasts, alternate alignment analysis, typical cross sections, project limits, design criteria, and roadway layouts for alternate alignments.

The Department anticipates completing the State Environmental Policy Act (SEPA) process in Q3 2025. The Department will retain SEPA responsibilities as further set forth in the Agreement and also be responsible for obtaining any additional environmental or waterway permits necessary with respect to the Project (subject to the Progressive Contractor’s obligations to assist and coordinate with the Department in obtaining and maintaining Department-provided approvals under the Agreement), except that the Progressive Contractor will be responsible for obtaining the Project’s Indiana Department of Environmental Management “Construction Stormwater General Permit”.

The Department anticipates performing preliminary Project geotechnical engineering services prior to execution of the Agreement and anticipates making certain geotechnical investigation and field data available to the Progressive Contractor as reference information documents.

The Department anticipates performing certain utility coordination and subsurface utility investigation activities in Q4 2024 prior to execution of the Agreement and anticipates making certain materials prepared as part of these efforts available to the Proposers or the Progressive Contractor as reference information documents (subject to the utility coordination and subsurface utility investigation obligations of the Progressive Contractor under the Agreement).

### 1.5 Procurement Schedule

The following represents the current anticipated schedule for the procurement. Further dates may be provided in subsequent iterations of the procurement schedule via additional draft RFPs, RFP Amendments or other communication with would-be Proposers.

**Table 1: Procurement Schedule**

| Activity   | Date/Anticipated Date            |
|--|----------------------------------|
| Date of Notice of Intent to Offer  | July 18, 2024                    |
| <b>DRAFT RFP #1 Issued</b>   | July 29, 2024                    |
| <b>Deadline</b> for Submission by Prospective Proposers of ACC Access/Proposer Authorized Representative Designation Form              | August 6, 2024                   |
| One-on-One Meeting Agendas Due<br><i>The proposer’s agenda, attendee list, and general topics for discussion are due by this date.</i> | September 25, 2024               |
| One-on-One Meetings with Proposers   | October 2, 2024                  |
| <b>FINAL RFP Issued</b>  | October 9, 2024                  |
| <b>Deadline</b> to Submit Questions on Final RFP   | October 16, 2024                 |
| <b>Deadline</b> to Submit Proposed Preconstruction Work Hourly Rates to the Department’s External Audit Division for Approval          | October 16, 2024                 |
| If Elected by the Department, Issue Answers to Questions on Final RFP  | October 23, 2024                 |
| <b>Deadline</b> for Effective Date of All Required Prequalification’s  | October 30, 2024                 |
| <b>Proposal Due Date</b>   | November 4, 2024 at 4:00 p.m. ET |
| Proposer Interviews  | November 19, 2024                |
| Apparent Selected Proposer Announced and Project Award   | December 3, 2024                 |
| (expected) Agreement Finalized   | December 9, 2024                 |
| Agreement Executed   | December 16, 2024                |

Where the RFP provides a deadline or due date for submission of documents, correspondence, or other materials to the Department, the submission will only be considered timely if the Department receives the submission by the date and, if applicable, the time identified. If no time is identified, a submission will be considered timely if it arrives before 4:00 p.m. EST on the day identified.

## **1.6 Anticipated Project Funding**

The total current funding anticipated for Project delivery is \$44.5 million.

## **1.7 Federal Requirements**

### **1.7.1 General Obligations**

To preserve the ability of the Department to use federal funding for the Project, the procurement and the Agreement shall comply with applicable federal Laws. The Project is a Federal-aid highway contract and the Progressive Contractor will be required to comply with all federal laws and regulations, as more fully set forth in Agreement Exhibit G (*Federal Requirements*), in addition to analogous and other State laws and regulations.

### **1.7.2 Disadvantaged Business Enterprise Program**

The regulations found in 49 CFR Part 26, and the definitions and requirements contained therein (including by extension the DBE-related requirements of this Section 1.7.2, the RFP, and the Agreement) will apply to the Project to the extent allowed under applicable Law.<sup>12</sup>

It is the policy of the Department that Disadvantaged Business Enterprises (“DBEs”) shall have the opportunity to participate in the development and performance of highway construction projects financed in whole or in part by federal funds in order to create a level playing field for all businesses who wish to contract with the Department. To that end,

No party involved on the Project shall discriminate on the basis of race, color, national origin, or sex in the performance of work performed pursuant to Department contracts. The Progressive Contractor shall carry out applicable requirements of 49 CFR 26 in the award and administration of federally assisted highway construction projects. The Progressive Contractor shall include this provision in all its subcontracts and supply agreements pertaining to contracts with the Department.

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<sup>1</sup> The recent U.S. District Court of Eastern District of Kentucky Central Division ruling in *Mid-America Milling Company, LLC, et al. v. United States Department of Transportation, et al.* (Case No. 3:23-cv-00072-GFVT) may impact the applicability of DBE requirements to the Project. The Department will provide further information as to the applicability of DBE requirements as it becomes available.

<sup>2</sup> In the event DBE requirements are not applicable to the Project, Indiana state requirements for Minority and/or Women’s Business Enterprise and Indiana Veteran Owned Small Business utilization will apply to the Project.



Failure by the Progressive Contractor to carry out these requirements will be considered a material breach of the Agreement, which may result in the termination of the Agreement or such other remedies as may be available thereunder.

The DBE goal for the Project will be established after selection of the Progressive Contractor and prior to authorization of any Construction Work. The DBE goal for the Project is expected to range between 0% and 14% of the total Project value. The Progressive Contractor will be required to exercise all necessary and reasonable steps to ensure that the DBE goal is met. Per Section 6 of Exhibit J (INDOT DBE Requirements) of the Agreement, in accordance with 23 CFR 635.506(e), the Progressive Contractor shall, as precondition to the Department's execution of each Pricing Package Amendment, submit to the Department all documentation relating to good faith efforts required under 49 CFR 26.53(b)(2).

### **1.7.3 Civil Rights/Equal Employment Opportunity**

The Indiana Civil Rights Law (IC § 22-9-1) and the federal Civil Rights Act of 1964 (as well as 41 CFR Part 60 and 23 CFR Part 230) shall each apply to the Project and the Agreement.

### **1.7.4 Prevailing Wage Requirements**

Prevailing wage requirements under the federal Davis-Bacon Act will be applicable to the Project.

## **SECTION 2 PROCUREMENT PROCESS**

### **2.1 Procurement Method**

The Department intends to use a single step with interview procurement method to select the Progressive Contractor. The Department reserves the right to modify the procurement to comply with applicable Law or address the best interests of the Department and the State of Indiana, including canceling the procurement at any time.

### **2.2 Progressive Design-Build Model**

Progressive Design-Build ("PDB") is an alternative contracting method in which a contractor teams with a designer and other legal entities in any legal manner (sub-prime, joint venture, etc.) to perform design and other preconstruction services for a project. In this model, the Department enters into a progressive design-build agreement with a legal entity or joint venture (as the "Progressive Contractor") to perform "preconstruction services" and "design services" (each as defined under IC 8-23-9.5). If the Department determines that the Progressive Contractor, with and through its assembled team, has been successful in meeting the goals of the particular project, the Progressive Contractor (with its team) will be given an opportunity to construct it. The Progressive Contractor, with and through its team, shall share pricing information with the Department to facilitate price discussions and to help ensure the Department is receiving a fair price for the work to deliver the project as designed. The Department will utilize an Independent Cost Estimator ("ICE") to evaluate the Progressive Contractor's "Cost Model" and "Pricing Milestone Estimates" ("PME"). If the Department is satisfied with the performance of the Progressive Contractor, its approach to building the project, and the price, then the Department would award the construction of the Project through execution of the "Construction Phase Amendment" with the Progressive Contractor, capturing the price and finalizing other terms and conditions for project delivery. The Progressive Contractor will contract to perform such construction and related work. If the Department is not satisfied, the Department will have the right to terminate the progressive design-build agreement

(depending on the circumstances, for convenience, failure to agreement upon Construction Phase terms, or Progressive Contractor default – see Agreement Section 24 (*Breach of Contract*) and Agreement Section 25 (*Termination for Convenience; Failure to Agree on Construction Phase Amendment or Pricing Package Amendment*) of the Agreement for more information), and re-procure a progressive design-builder (and team), retaining the Progressive Contractor’s Lead Designer or Lead Contractor, (or both), or procure the project by some other method.

Agreement Exhibit B (*Preconstruction Phase Requirements*) outlines potential services to be performed during the Preconstruction Phase of the Project. The scope of work for Preconstruction Phase services will be negotiated with each Preconstruction Phase Amendment, see Agreement Section 2.1 (*Preconstruction Phase*) for additional information.

For purposes of IC § 8-23-9.5(16)(a)(9) and (6), the “GMP” is the aggregate of Preconstruction Phase Work and, if the Department elects to pursue construction of the Project, the Pricing Package amendments.

### **2.3 Department Authorized Representative**

The Department has designated the following individual to be its authorized representative for the procurement (“Department Authorized Representative”) who (or whose designee) will provide all official Project communications, as intended under Section 3.8.1 (*Proposer Communications*):

Brian W. Shattuck  
Major Projects Project Manager  
Indiana Department of Transportation  
100 N. Senate Avenue, Indianapolis, Indiana 46204  
E-mail: [alternativedelivery@indot.in.gov](mailto:alternativedelivery@indot.in.gov)

### **2.4 Rules of Contact**

The rules of contact remain in effect until identification of the Apparent Selected Proposer or until the formal cancellation of the procurement by the Department. The Proposer shall comply with all applicable Laws and refrain from lobbying any governmental authority in connection with the procurement. No employee, member, agent, advisor, or consultant of any Proposer or Identified Contractor may undertake any ex-parte communications, directly or indirectly, regarding this procurement with any representative of the State of Indiana, the Department, or FHWA, including staff, advisors, contractors, or consultants, except for communications expressly permitted by this RFP.

All communications between the Department and the Proposer, other than “Proposer Questions” under Section 2.5 (*Questions and Responses Regarding the RFP*) before grant of access to ACC and otherwise as expressly directed hereunder, shall be in writing utilizing the Department Authorized Representative’s e-mail listed in Section 2.3 (*Department Authorized Representative*). All communications thereafter (including “Proposer Questions” shall be via ACC. For avoidance of doubt, all communications with the Department’s External Audit division shall be as set forth under Section 3.7 (*Preconstruction Work Hourly Rates*) and not with the Department Authorized Representative or via ACC.

## 2.5 Questions and Responses Regarding the RFP

The Proposer shall review the RFP and any RFP Amendments issued by the Department prior to the Proposal Due Date. If the Proposer identifies any real or perceived mistake, discrepancy, deficiency, ambiguity, error, or omission contained therein, the Proposer shall request written clarification or otherwise pose questions (“Questions”) using Form D (Proposer Questions). Unless expressly agreed otherwise, in advance and in writing by the Department Authorized Representative, the Proposer may only submit Questions through the Proposer Authorized Representative. Proposers may also ask Questions using Form D (Proposer Questions) with respect to the other RFP documents set forth in Section 1.2.1 (Documents Comprising the RFP). **Questions in this regard should only be posed in the nature of seeking additional information rather than proposing adjustments to risk apportionment, terms, or conditions.**

The Department will only consider Questions submitted using Form D (Proposer Questions) via ACC, after submission of the ACC Access/Proposer Authorized Representative Designation Form and thereafter access granted to the Proposer Authorized Representative.

The Department will consider Questions in issuing the final RFP and any RFP Amendments. The Department also may elect, at its discretion, to respond to Questions through written responses. Responses to Questions, if issued, will be issued on the dates specified in Section 1.5 (Procurement Schedule). Any written responses to Questions given by the Department will be for the information of the Proposer only and will not become part of the Agreement, except to the extent that the Department, in its discretion, may incorporate the substance of a response into, as appropriate, the form of Agreement as part of the RFP, whether in the final RFP issuance or by means of any RFP Amendments.

Questions shall be submitted prior to the dates specified in Section 1.5 (Procurement Schedule) using Form D (Proposer Questions) **in Microsoft Excel format.**

In completing Form D (Proposer Questions), the Proposer shall specify the relevant document (e.g., the RFP, form of Agreement, etc.), including the section number (and, if helpful, page or paragraph number for longer sections), for the Department’s ease of reference.

All questions shall:

- (1) be listed separately;
- (2) not identify the Proposer in the body of the question or comment;
- (3) be sequentially numbered;
- (4) specifically reference the relevant document and Section (include the exact language in question) unless it is a general question;
- (5) address a single issue per question on an eligible topic;
- (6) clearly indicate why the comment was made; and

(7) conspicuously identify whether the Proposer views its Question as confidential or proprietary in nature by indicating so on Form D (*Proposer Questions*). The Question shall also explain why the Proposer considers the question to be confidential or proprietary.

The Department intends to provide responses directly to the Proposer who submitted the Questions. The Department may, however, provide responses to all Proposers.

The Department may, in its sole discretion and in the interests of maintaining a fair process or complying with applicable law, publish responses to Questions identified as confidential. Under such circumstances, it will inform the Proposer in advance and may allow the Proposer to withdraw the question, rephrase the question, or concur in having the Question answered non-confidentially.

## **2.6 Pre-Proposal One-on-One Meetings**

The Department may invite Proposers to participate in a one-on-one meeting. If invited, the Proposer shall submit an agenda for the one-on-one meeting by the date specified within the Department's notice of invitation. The agenda shall include a list of names of individuals from the Proposer who will be in attendance as well as general topics for discussion. This information will be used to assure that the Department includes appropriate representation at the meeting. One-on-one meetings will be held on the dates set forth in Section 1.5 (*Procurement Schedule*). One-on-one meetings may in the Department's sole discretion be held virtually, in-person (any such in-person location to be proximate to the Department Central Office in Indianapolis and provided in a subsequent notice to Proposers), or hybrid virtually/in-person.

During one-on-one meetings, the Proposer may ask questions and the Department may provide responses for informational purposes. Any responses provided by the Department during one-on-one meetings may not be relied upon; provided, however, that the Department may, in its discretion, and subject to Section 2.5 (*Questions and Responses Regarding the RFP*), incorporate the substance of its responses into the RFP. The Department reserves the right to disclose to all Proposers any issues raised during the one-on-one meetings, except to the extent that the Department determines such disclosure would reveal a Proposer's confidential business strategies, intellectual property, or technical solutions. The Department will maintain the confidentiality of information related to Proposers and their Proposals to the extent permitted by Law.

## **2.7 Confidentiality**

### **2.7.1 Release of Information and the Access to Public Records Act**

All Proposals will be deemed, once submitted, to be the property of the Department. The Department will not disclose any portion of any Proposal prior to award to anyone outside the Department, other than representatives of the federal government (if required) and any State personnel or outside consultants engaged by the Department in connection with this procurement. Upon the execution of the Agreement, the Department will have the right to duplicate, use, or disclose all Proposal data submitted by Proposers in response to this solicitation as a matter of public record. The Department's requirements for the content of the Technical Proposal are not intended to include proprietary data or other information, nor does the Department seek proprietary information of any Proposer. No portion of any Proposal shall be designated as "confidential" or "proprietary" information under IC § 5-14-3-4 or otherwise, and it is the

Department' intent to publish entire Proposals pursuant to Section 5.9 (*Public Posting of Scoring and Technical Proposals; Proposer Debrief*). Information declared by the Proposer to be confidential, either in whole or in part may be deemed unresponsive to the solicitation, and may be rejected.

Except as provided in this RFP, the Department will have the right to use all ideas, or adaptations of those ideas, contained in any received response to the solicitation. Selection or rejection of the Proposal shall not affect this right.

### **2.7.2 Observers During Evaluation**

The Proposer is advised that observers from federal or other governmental agencies including FHWA, as well as Department consultants, may observe the Proposal evaluation process and will be permitted to review the Proposals. All individual persons provided with access to the Proposals will maintain confidentiality of the information contained therein in accordance with Department policy.

### **2.8 Changes in Proposer's Organization and Identified Contractors**

Except as provided in this RFP, a Proposer may not make any changes with respect to the ownership of the Proposer or any Identified Contractor following the Proposal Due Date. Between the Proposal Due Date and execution of the Agreement, the Department will consider requests by Proposers to make changes with respect to the ownership of the Proposer and any Identified Contractors, such determination to be made in the Department's sole discretion based upon its written determination that a legitimate reason exists for the subject replacement. Any violation of the foregoing restrictions may result in disqualification of the Proposer from the procurement, including invalidating award of the mandate.

### **2.9 Notice to Proposers**

To report bid rigging activities call: 1-800-424-9071.

The U.S. Department of Transportation (DOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m. ET. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of the DOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General. All information will be treated confidentially, and caller anonymity will be respected.

## **SECTION 3 GENERAL REQUIREMENTS FOR PROPOSERS**

### **3.1 Organizational Conflicts of Interest**

The Proposer is prohibited from receiving any advice or discussing any aspect relating to the Project or the procurement with anyone with an organizational conflict of interest. The Proposer shall include a full disclosure of all potential organizational conflicts of interest in the Proposal, including all relevant facts concerning any past, present, or currently planned interests which may present an organizational conflict of interest, as required by 23 CFR 636.116.

Each of the following circumstances shall be deemed an organizational conflict of interest disqualifying the Proposer:

(1) Participation by any of the following legal entities or Affiliates on more than one Proposer team:

- (a) Lead Contractor;
- (b) Lead Designer; or
- (c) Key Personnel Firm.

(2) Participation by an Affiliate of any such legal entity identified in clause (1) above, on another Proposer team.

Without limiting the foregoing, the Proposer and Progressive Contractor shall comply in all respects with the Department Conflict of Interest Policy set forth in Agreement Exhibit H, Attachment 1 (*Department Conflict of Interest Policy*).

The Proposer and each Identified Contractor shall disclose all conflicts of interest, including all present or planned contractual arrangements with the Department's project management team in Form B (*Proposer and Identified Contractor Certification*). The Proposer and each Identified Contractor shall, in the disclosure, identify planned efforts to avoid, neutralize, or mitigate any potential conflict of interest between such entity on the Project and such other contractual arrangements.

The Proposer is encouraged to disclose all potential organizational conflict of interest in advance of the Proposal Due Date for determination by the Department if such organizational conflict exists. If an organizational conflict of interest is determined to exist at the time of Proposal submittal, the Department may, in its sole discretion, disqualify the Proposer from the procurement. If the Proposer was aware of an organizational conflict of interest prior to the award of the Agreement and did not disclose the conflict to the Department using the prescribed form of notification in this RFP, the Department may terminate the Agreement for breach of contract.

### **3.2 Ineligible Individuals and Firms**

No entity that has been debarred or suspended from bidding or is otherwise ineligible for state or federal contracts may participate on any Proposer team.

At the time of submitting its Proposal, the Proposer, and each Identified Contractor shall certify on Form B (*Proposer and Identified Contractor Certification*) that it is not presently debarred, suspended, proposed for debarment, voluntary excluded, or disqualified from bidding by any federal or state agency and shall certify and indicate exceptions to the statements identified in Form B (*Proposer and Identified Contractor Certification*).

The Department, in its sole discretion, may reject a Proposal based on any such exception except to the extent the Department has evaluated the item during Proposal evaluation as provided in Section 5.2 (*Responsiveness and Pass/Fail Evaluation*) and there is no new information following Proposal submission that warrants rejection of the Proposal.

### **3.3 Restricted Firms**

The following firms are not allowed to participate on any Proposer team due to a conflict of interest:

- (1) Ballard Spahr LLP;
- (2) Burgess & Niple, Inc.;
- (3) Parsons Transportation Group, Inc.;
- (4) Garver, LLC;
- (5) Kelly McNutt Consulting;
- (6) American Structurepoint;
- (7) HNTB;
- (8) Atlas Technical Consultants LLC;
- (9) Weintraut & Associates Historians, Inc.;
- (10) Innovative Contracting & Engineering LLC; and
- (11) Any other legal entity previously or then-currently engaged by the Department (including Subcontractors and subconsultants at every tier) in connection with the Project.

Proposers are requested to inform the Department if it or any member of their proposed teams are involved with any development or engaged by the Indiana Economic Development Corporation with respect to any developments in or around Lebanon, Indiana.

### **3.4 Registration with the State**

The Apparent Selected Proposer will be required to provide to the Department evidence of the Apparent Selected Proposer's and each Identified Contractor's authorization to transact business in the State prior to execution of the Agreement and as a condition precedent to the Department's execution thereof. Depending on the form of organization, such evidence may be in the form of (1) a "certificate of good standing" (or equivalent) from the state of organization of such party and (2) a "Certificate of Existence" from the Indiana Secretary of State. The Department may accept or require other or additional evidence of such authority, in the Department's sole discretion. All such evidence shall be submitted no later than five Business Days after the Department notifies a Proposer that it is the Apparent Selected Proposer.

### **3.5 Department Prequalification**

In order to submit a Proposal applicable Identified Contractors shall be prequalified with the Department prior to the Proposal Due Date for the classifications of work required under this Section 3.5. If any such entity is a partnership, joint venture, or consortium, then the foregoing shall be construed to apply to its partners or members. All subcontractors utilized by the Proposer on the Project shall satisfy the prequalification requirements set forth in this Section 3.5 prior to performing applicable work.

See the tables below for additional, specific information as to the particular prequalifications required and those entities that must be prequalified. Responses that do not have all mandatory areas of prequalification fulfilled will be deemed nonresponsive.

Information on Department contractor prequalification is available at: <https://www.in.gov/indot/doing-business-with-indot/contractorsconstruction/contractors-prequalification/>.

As part of the Technical Proposal to be provided by the Proposer, the Proposer must demonstrate that, consistent with IC § 8-23-10:

(1) The Proposer and any Identified Contractor<sup>3</sup> each hold a Department “Certificate of Qualification” (<https://www.in.gov/indot/2740.htm>);

(2) *At least one* of the Proposer or an Identified Contractor holds (as evidenced by its Department “Certificate of Qualification”) a Department construction prequalification with respect to *at least one* of the work types set forth below (*note that it is not necessary that the Proposer or an Identified Contractor holds all of the prequalifications described below*):

| Prequalification Work Type | Prequalification                           |
|----------------------------|--|
| C(a)                       | Heavy Grading                              |
| E(b)                       | Asphalt Pavement: w/o INDOT Cert HMA Plant |
| B(a)                       | Asphalt Pavement: w/ INDOT Cert. HMA Plant |
| A(a)                       | Concrete Pavement: General                 |
| D(a)                       | Highway or Bridge Over Water               |

(3) With respect to any “professional services consultant” as defined in IC-8-23-9.5(9), at least one Identified Contractor holds (as evidenced by its INDOT “Certificate of Qualification”) *each* of the consultant prequalification types as set forth below:

| Prequalification Work Type | Description                                      |
|----------------------------|--|
| 3.2                        | Complex Traffic Capacity and Operations Analysis |
| 4.1                        | Traffic Safety Analysis                          |
| 7.1                        | Geotechnical Engineering Services                |

<sup>3</sup> Proposers should note that under the Agreement any subcontractor performing more than \$300,000 of construction services, as defined in IC-8-23-9.5(3) will need to have a Department Certificate of Qualification.



|      |                                   |
|------|-----------------------------------|
| 8.2  | Complex Roadway Design            |
| 8.3  | Roundabout Design                 |
| 9.1  | Level 1 Bridge Design             |
| 10.1 | Traffic Signal Design             |
| 10.3 | Complex Roadway Sign Design       |
| 10.4 | Lighting Design                   |
| 16.1 | Utility Coordination              |
| 17.3 | Storm Sewer and Detention Design  |
| 18.1 | Pavement Analysis-Design Services |

(4) The Proposer has a Department “Certificate of Qualification” for at least the anticipated total funding for the Project, as described in Section 1.6 (Anticipated Project Funding) as of the Proposal Due Date. Subcontractors and subconsultants will not be counted toward this assessment of prequalification.

### **3.6 Insurance, Licensing, and Permits**

The Proposer shall ensure that, if selected as the Progressive Contractor, it will comply with those insurance, licensing to provide insurance specified in the Agreement.

All legal entities participating in this procurement, or the Agreement, shall obtain all licenses and permits and take all necessary steps to conduct business in the State of Indiana and perform the Work required under the Agreement, including proposing and carrying out contracts consistent with the laws of the State of Indiana.

All licensed professionals identified in the Proposal who are required to be licensed for the Project shall be licensed in the State of Indiana on or before the Proposal Due Date.

### **3.7 Preconstruction Work Hourly Rates**

Proposers shall submit hourly rates as described in the “INDOT Preconstruction Phase Hourly Rate Policy – Progressive Delivery Projects” (the “Department Rate Policy”) on or before the date specified in Section 1.5 (Procurement Schedule). The hourly rates shall be submitted by email (using the Microsoft Excel form provided by the Department) to the Department’s External Audit division at [externalaudit1@indot.IN.gov](mailto:externalaudit1@indot.IN.gov) with the subject line “RFP # PD2402 – Preconstruction Work Hourly Rates”

For professional services consultant firms with an audited FAR rate approved by the Department, Proposers may request approval of individual rates for each personnel that is currently expected work on the Project during the Preconstruction Phase or rates by category of personnel. For contractors and other firms without an audited FAR rate approved by the Department, Proposers shall submit hourly rates for

each personnel currently expected to work on the Project during the Preconstruction Phase. Additional Project personnel may be added during the term of the Agreement as additional Preconstruction Work is authorized by the Department. Such rates (in each case submitted and determined consistent with this RFP and the Department Rate Policy) shall be the “Preconstruction Work Hourly Rates”.

In developing Preconstruction Work Hourly Rates, Proposers shall use a profit of 12%. Proposers shall provide such backup documentation and other justifications as are consistent with the Department Rate Policy and otherwise as may be requested by the Department’s External Audit division.

In the event that (A) a Proposer believes it will not be able to satisfy the submission deadline for Preconstruction Work Hourly Rates specified in Section 1.5 (Procurement Schedule); or (B) the Department’s External Audit division has responded to a timely submittal of Preconstruction Work Hourly Rates with a request for additional information that the Proposer believes may not feasibly be submitted to and approved by the Department’s External Audit division prior to the Proposal Due Date, then in each instance the Proposer shall promptly notify the Department Authorized Representative. Following such a notification, the Department may elect (in its sole discretion) to issue an extension to the submission deadline for Preconstruction Work Hourly Rates specified in Section 1.5 (Procurement Schedule) or the Proposal Due Date.

### **3.8 Proposer Communications; ACC Access Request; Proposer Authorized Representative**

#### **3.8.1 Proposer Communications**

The Department intends to facilitate communications by the Department relating to the Project and this procurement via ACC. Initial communications to facilitate access to ACC, or other communications expressly stated hereunder as to be handled outside of ACC are exceptions.

#### **3.8.2 ACC Access/Proposer Authorized Representative Designation Form**

Proposers shall, on or before the date specified in Section 1.5 (Procurement Schedule), submit to the Department at [alternativedelivery@indot.in.gov](mailto:alternativedelivery@indot.in.gov) the form attached as Form H (ACC Access/Proposer Authorized Representative Designation Form) (the “ACC Access/Proposer Authorized Representative Designation Form”). Any party that fails to submit a complete ACC Access/Proposer Authorized Representative Designation Form in the manner required under this Section 3.8.2 prior to the date specified in Section 1.5 (Procurement Schedule) shall be precluded from submitting a Proposal in response to this RFP.

Without limiting Section 3.8.3 (Proposer Authorized Representative), entities that submitted requests to the Department at [alternativedelivery@indot.in.gov](mailto:alternativedelivery@indot.in.gov) for access to ACC prior to the date identified for issuance of the draft RFP, need not (and shall not) submit the ACC Access/Proposer Authorized Representative Designation Form; provided, however, that the authorized representative identified in such pre-draft RFP request shall be the Proposer Authorized Representative. Any omitted contact information that otherwise would have been included in the ACC Access/Proposer Authorized Representative Designation Form regarding the Proposer Authorized Representative shall be provided to the Department by such Proposer Authorized Representative via ACC and no later than the deadline set

forth in Section 1.5 (Procurement Schedule) for submission of the ACC Access/Proposer Authorized Representative Designation Form.

### **3.8.3 Proposer Authorized Representative**

The Proposer authorized representative identified in each Proposer’s ACC Access/Proposer Authorized Representative Designation Form, or by prior notification as described under Section 3.8.2 (ACC Access/Proposer Authorized Representative Designation Form) (the “Proposer Authorized Representative”) shall be such Proposer’s sole point of contact with the Department regarding this procurement (except as may be authorized by the Department during one-on-one meetings pursuant to Section 2.6 (Pre-Proposal One-on-One Meetings) or Proposer interviews pursuant to Section 5.4 (Interview)). Each entity considering or intending to submit a Proposal may only identify, by any means identified in Section 3.8.2 (ACC Access/Proposer Authorized Representative Designation Form), only one Proposer Authorized Representative. The Department will disregard, with obligation to notify any entity, redundant or subsequent initial notifications of the designation of an entity’s Proposer Authorized Representative, except that the Proposer may subsequently modify its designated Proposer Authorized Representative upon written notice to the Department Authorized Representative. Following grant of access to ACC, the Department may afford access to some or all of the materials therein to an individual person nominated by the Proposer Authorized Representative.

### **3.9 Other Department Requirements**

Proposers shall provide the certifications and verification affidavits with the Proposals, as more fully set forth in Section 4.2 (Compilation and Uploading of Proposal), evidencing compliance (and intent to comply) with certain State laws and Department policies (e.g., drug-free workplace, employment eligibility, prohibitions on certain investments, etc.). All such certifications and verification documents shall be submitted as the forms attached as Form G (Other Department Requirements), some of which will be attached to the Agreement as representations and warranties thereunder.

## **SECTION 4 PROPOSAL SUBMITTAL REQUIREMENTS**

### **4.1 General Submittal and Format Requirements**

Proposals shall be received no later than the time on the Proposal Due Date specified in Section 1.5 (Procurement Schedule). Late submittals will not be considered.

An Autodesk Construction Cloud site (the “ACC”) has been established for the purpose of receiving Proposals and other Proposer and Department communications – Proposers will receive a link to the ACC from the Department upon a timely and complete submission of the ACC Access/Proposer Authorized Representative Designation Form in accordance with Section 3.8.2 (ACC Access/Proposer Authorized Representative Designation Form).

Only PDF files of the Proposal shall be submitted. The PDF files shall include bookmarks aligned with the organization described in Section 4.2 (Compilation and Uploading of Proposal) to facilitate navigation of the document. If more than one PDF attachment comprising the Proposal is transmitted, the Proposer shall ensure that each PDF is separated by volume with the cover of each volume of the Proposal referencing (1) the Project name (“SR 32 Progressive Design-Build Project”) (2) RFP # PD2402 and (3) volume number.

An 8½ by 11-inch format (½ inch margins) is required for typed submissions and an 11 by 17-inch format is required for technical/design drawings, with individual file sizes limited to a maximum of 50 megabytes. For ease of review, Proposers are requested to minimize the number of pages with, and size of, color three-dimensional graphics and renderings. All pages should be sequentially numbered. Typed text must be single-spaced with the type font size being no smaller than 12-point (either Times New Roman or Arial), provided the font in organizational charts, graphics and tables may be as small as 10-point so long as the organizational charts, graphics and tables are legible, as determined by the Department, in its sole discretion. The use of 11 by 17-inch pages for tables, graphics and maps is acceptable in the main body of the Proposal. Each 11 by 17-inch page will be considered one page. Graphics are allowed within established page limits. Text used on graphics shall be legible and shall be used to describe the contents of the graphic. Any additional narrative text that does not directly relate to a graphic may be excluded from the Department's consideration at the Department's sole discretion.

It should be noted that once uploaded Proposals cannot be modified; however, prior to the date and time specified in Section 1.5 (Procurement Schedule), revised versions of the Proposal may be uploaded to the ACC. Revised versions, if required, shall be clearly identifiable as submissions, and Proposers are invited to notify the Department Authorized Representative, via email, of the appropriate version to use. The Department will not accept any unsolicited amendments, addenda, revisions, or alterations to any Proposal after the Proposal Due Date. If the Department issues a RFP Amendment after the Proposal Due Date, then the Proposer may respond. The Proposer's response shall precisely respond to the contents of the RFP Amendment.

#### **4.2 Compilation and Uploading of Proposal**

The Proposal shall consist of two volumes: the Administrative Submittal (Proposal Volume I) and the Technical Proposal (Proposal Volume II).

The contents of the Proposal Volumes shall be organized in the order set forth in this Section 4.2 (Compilation and Uploading of Proposal).

The Proposer shall provide one electronic copy of each component part of the Proposal to the Department by uploading to the ACC that has been established for receipt of Proposals.

##### **4.2.1 Administrative Proposal (Proposal Volume I)**

The requirements and information to be submitted, in the order noted below, in Volume 1 of the Proposal are as follows:

- (1) Form A (*Proposal Letter*);
- (2) Form B (*Proposer and Identified Contractor Certification*);
- (3) Form C (*Identified Contractors*);
- (4) Form E (*Form of Commitment Letter*);
- (5) Form F (*Prequalification Identification*);

- (6) The certifications and verification documents set forth in Form G (*Other Department Requirements*);
- (7) Form I (*Proposer-Specific Agreement Inputs*); and
- (8) All required attachments relevant to each form.

The Proposer shall not in any manner substantively modify the content of any of the above-referenced forms except as expressly permitted under the applicable form.

#### **4.2.1.2 Surety Letter**

Proposal Volume I shall include a letter from a Surety or insurance company indicating that the Surety has reviewed the Proposer's and relevant entities' financial statements, works in progress, and other diligence information and is of the opinion that the Proposer could obtain both P&P Bonds, each with a penal sum of not less than the anticipated total Project cost as described in Section 1.6 (*Anticipated Project Funding*) and otherwise in accordance with the requirements of Section 5.8 (*Delivery of P&P Bonds*) and the Agreement. If the Progressive Contractor is to be a joint venture, partnership, limited liability company, or other association, then a separate letter shall be submitted for each member or partner thereof with respect to which the Surety is certifying to the entity's bonding capacity with the foregoing requirements. Letters indicating "unlimited" bonding capability are not acceptable, nor letters with unreasonable qualifications or that admit of deferred due diligence, to be determined in the Department's sole discretion.

#### **4.2.1.3 Identified Contractors**

Proposal Volume I shall include a list of Identified Contractors in the form of Form C (*Identified Contractors*). Pursuant to the Agreement, engagement and selection of subcontractors and subconsultants after execution of the Agreement is subject to competitive selection and Department approval. All legal entities identified on Form C (*Identified Contractors*) shall be subject to the requirements of the Agreement, including being subject to Open Book Basis requirements.

#### **4.2.1.1 Proposer-Specific Agreement Inputs**

Proposal Volume I shall include certain information necessary to complete the Agreement set forth in Form I (Proposer-Specific Agreement Inputs) which will be utilized by the Department to complete the Agreement in the event the Proposer is awarded the Agreement. For avoidance of doubt, the required submittal under this Section 4.2.1.4 is administrative in nature and (without limiting Section Error! Reference source not found. (Responsiveness and Pass/Fail Evaluation)) shall not be considered with respect to Technical Proposal scoring.

#### **4.2.2 Technical Proposal (Proposal Volume II)**

The contents of Proposal Volume II shall be organized in the order set forth in this Section 4.2.2.

**4.2.2.1 Organizational Chart**

The Proposer shall provide an organizational chart that shows the individuals and Identified Contractors that comprise the Proposer’s team. *This information shall be submitted in a single 11-inch by 17-inch formatted page.*

**4.2.2.2 Experience of the Proposer and Identified Contractors**

The Proposer shall submit a narrative describing the prior experience, if any, of the Proposer and Identified Contractors. *The “Experience of the Proposer and Identified Contractors” narrative shall not exceed four pages.*

**4.2.2.3 Key Personnel Experience**

The Proposer shall submit a resume for each of its Key Personnel. Referenced projects in Key Personnel resumes shall include the name and contact information of the project representative for the identified project. It is the responsibility of the Proposer to verify the accuracy of the contact information provided. If experience cannot be validated by the Department due to inaccurate contact information, the experience will not be considered in the evaluation of Proposals. Project representatives shall be owners or clients for whom the Key Personnel performed the work on the project (for avoidance of doubt, restricted firms listed in Section 3.3 (Restricted Firms) may be listed as project representatives with respect to identified projects). The same individual may fill more than one Key Personnel position; however, a separate resume is required for each Key Personnel position. *Key Personnel resumes shall not exceed two pages each.*

Table 2 (Key Personnel Preferred Requirements) shows the Department’s preferred requirements for each Key Personnel position.

**Table 2: Key Personnel Preferred Requirements**

| Key Personnel Position | Preferred Requirements  |
|------------------------|---|
| Project Manager        | The Project Manager shall have demonstrable, meaningful, relevant experience of sufficient duration in or directly relating to construction and management of design and construction of highway projects. The Project Manager must demonstrate experience facilitating third-party involvement and with major earthwork projects. The Project Manager will be responsible for the overall construction, maintenance, contract administration, safety, quality, and environmental compliance on behalf of Progressive Contractor. The Project Manager shall hold a full-time position within the Lead Contractor’s organization with authority to make decisions affecting any aspect of the Project. The Project Manager shall be in the position to fully-direct the prosecution of the Work and will act as a single point of contact on all matters on behalf of Progressive Contractor. The Project Manager is expected to be assigned to the Project on a part-time basis during the Preconstruction Phase and full-time for the Construction Phase. <i>Preferred duration of design-build experience in same/similar role: 10 years.</i> |

|                              |  |
|------------------------------|--|
| Construction Manager         | <p>The Construction Manager shall have demonstrable, meaningful, relevant experience of sufficient duration in or directly relating to construction and construction management on highway and bridge projects. The Construction Manager is responsible for ensuring the Project is constructed in accordance with the Contract Documents. The Construction Manager is also responsible to provide oversight and supervision over the technical Work of the design team, review plans and designer submittals for constructability, and ensure design documents are comprehensively conveyed for the Construction Phase. The Construction Manager will be responsible for coordinating with the Department’s professional services consultant retained for the Project to resolve any issues that occur during construction. The Construction Manager is expected to be assigned to the Project on a part-time basis during the Preconstruction Phase and full-time for the Construction Phase. <i>Preferred duration of design-build experience in same/similar role: 10 years.</i></p> |
| Construction Quality Manager | <p>The Construction Quality Manger shall be responsible for the overall management and supervision of the Progressive Contractor’s construction quality programs and quality assurance. The Construction Quality Manager shall report directly to Progressive Contractor’s executives or Authorized Representative. The Construction Quality Manager shall be delegated the authority to make needed improvements to the quality of Work, including the suspension of the Work, if required. The Lead Estimator is expected to be assigned to the Project on a part-time basis during both the Preconstruction Phase and the Construction Phase, with periods in each requiring greater availability. <i>Preferred duration of experience: 10 years of recent experience on major highway, and major earthwork projects.</i></p>   |
| Lead Estimator               | <p>The Lead Estimator shall have demonstrable, meaningful, relevant experience of sufficient duration in or directly relating to preparing production-based construction cost estimates, managing risk, and managing construction schedules for projects with similar scope and complexity. The Lead Estimator will be responsible for complying with the open-book process as well as coordinating with the Department’s professional services consultant retained for the Project, to reconcile costs and quantity differences, and reach agreement for each Pricing Milestone Estimate (PME) and the guaranteed maximum price for the Project and each Pricing Package. The Lead Estimator is expected to be assigned to the Project on a part-time basis during both the Preconstruction Phase and the Construction Phase, with periods in each requiring greater availability. <i>Preferred duration of design-build experience in same/similar role: seven years.</i></p>  |
| Project Scheduler            | <p>The Project Scheduler shall be responsible for developing and maintaining the Project Schedule and associated Submittals (including each Baseline Pricing Package Schedule) and managing any necessary Project Schedule changes. The Project Scheduler shall be proficient in the use of Primavera</p>  |

|                |  |
|----------------|--|
|                | project management software. The Project Scheduler is expected to be assigned to the Project on a part-time basis during both the Preconstruction Phase and the Construction Phase. <i>Preferred duration of design-build experience: 10 years of scheduling experience with procurement and construction of major highways, and major earthwork projects.</i>   |
| Design Manager | The Design Manager shall have demonstrable, meaningful, relevant experience of sufficient duration in or directly relating to management of all required design of highway projects. The Design Manager must demonstrate experience facilitating third-party involvement on projects of similar size and complexity. The Design Manager will be responsible for the overall design and execution of the Preconstruction Phase including compliance to all applicable design standards and environmental requirements. The Design Manager shall be licensed as a Professional Engineer in the State of Indiana and have authority to make decisions during the Preconstruction Phase. The Design Manager shall be in the position to direct the prosecution of the Preconstruction Phase. The Design Manager is expected to be assigned to the Project on a full-time basis during the Preconstruction Phase and part-time for the Construction Phase. <i>Preferred duration of design-build experience in same/similar role: 10 years.</i> |

#### 4.2.2.4 Project Understanding and Approach

The Proposer shall submit a narrative describing its understanding of the Project and approach to advancing the Project through the Preconstruction Phase and Construction Phase in alignment with the Department’s goals for the Project. The Project approach should demonstrate Proposer’s understanding of the Project and the progressive design-build delivery method and clearly describe activities and staff responsibility that aligns with the guidance included in the Department’s alternative delivery manual and the requirements of the draft agreement included as part of the RFP. *The “Project Understanding and Approach” narrative shall not exceed eight pages.*

#### 4.3 Proposal Validity Period; No Withdrawal of Proposals

All Proposals are valid for a period of 150 days after the Proposal Due Date (the “Proposal Validity Period”). No Proposer shall withdraw its Proposal unless (1) the Proposer is notified by the Department that no Agreement for the Project will be awarded by the Department pursuant to the RFP, (2) the Proposer is notified by the Department that the Department has awarded the Agreement to another Proposer, and the Department has received the executed Agreement and all other required documents from the Apparent Selected Proposer, (3) the Proposer is notified by the Department that the Department does not intend to award the Agreement to the Proposer; or (4) the Proposer is not notified prior to expiration of the Proposal Validity Period that the Department has selected the Proposer as the Apparent Selected Proposer. Any Proposer may elect, in its sole discretion, to extend the Proposal Validity Period. Any attempt to withdraw a Proposal in violation of this Section 4.3 may result in preclusion of the Proposer from future contracting opportunities with the Department.



## SECTION 5 PROPOSAL EVALUATION PROCESS

### 5.1 Proposal Evaluations Generally

The Department will appoint such individual persons, and conduct the evaluations of the Proposals in accordance with Section 4.2.5 of the Department's "Alternative Project Delivery Manual" and this Section 5 (Proposal Evaluation Process). Without limiting the Department's internal conflict of interest disclosures and policies, and to the extent permitted under applicable laws, by submitting Proposals, Proposers acknowledge and agree that (1) Department personnel's personal knowledge of and experience with Proposer, Identified Contractors, as well as the individual persons (to include proposed Key Personnel), and (2) Department's corporate experience with Proposer, Identified Contractors, and any of their Affiliates are not, in each case, in themselves, irrelevant to the evaluation of the Proposals.

### 5.2 Responsiveness and Pass/Fail Evaluation

The Department will review each Proposal to confirm that it is responsive. A responsive Proposal shall be complete and shall not deviate from the RFP requirements in any material respect.

Following the Department's determination of responsiveness, the Department will evaluate each Proposal based upon the following pass/fail criteria:

(1) The Proposer has presented evidence showing the makeup of its organization and evidence that its organization has the legal ability to enter into and perform the Agreement to deliver the Project;

(2) The Proposer and each Identified Contractor identified on Form C (*Identified Contractors*) is not currently suspended, debarred, voluntarily excluded, or disqualified from performing or bidding on work for any federal or state agency;

(3) The information disclosed in Form B (*Proposer and Identified Contractor Certification*) does not, in the Department's sole determination, materially adversely affect the Proposer's responsibility, including its integrity and ability to carry out the Project responsibilities potentially allocated to it;

(4) The information disclosed in Form B (*Proposer and Identified Contractor Certification*) does not identify any restricted firms listed in Section 3.3 (*Restricted Firms*), and Proposer's submitted Form B (*Proposer and Identified Contractor Certification*) does not modify the certification that it has not and will not engage any such restricted firms, if selected as the Progressive Contractor, to carry out the Project responsibilities potentially allocated to it;

(5) The Proposer demonstrates, in the Department's sole determination, that the Proposer is capable of obtaining the P&P Bonds in the amount set forth in Section 4.2.1.2 (*Surety Letter*).

(6) The Proposer has submitted all Preconstruction Work Hourly Rates to the Department's External Audit Division in accordance with Section 3.7 (*Preconstruction Work Hourly Rates*) as of the Proposal Due Date.

(7) The Proposer has submitted a completed Form I (*Proposer-Specific Agreement Inputs*) in accordance with Section 4.2.1.2 (*Proposer-Specific Agreement Inputs*).

A Proposal that is not responsive or does not achieve a “pass” rating on any pass/fail element will be deemed unacceptable and will not progress to further evaluation and scoring.

### **5.3 Initial Technical Proposal Evaluation and Ranking**

The Department (through the Department “evaluation committee” as described in IC § 8-23-9.5-17(b)) will perform its initial Technical Proposal evaluation and ranking of each Technical Proposal satisfying the requirements set forth in Section 5.2 (*Responsiveness and Pass/Fail Evaluation*). The purpose of this ranking is to establish the competitive range to determine the Proposers that will be invited to an interview as described in Section 5.4 (*Interview*). The Department will perform the initial Technical Proposal evaluation and ranking using the criteria described in Section 5.5 (*Technical Proposal and Interview Evaluation*).

### **5.4 Interview**

The Proposers that submitted the three highest-ranking Technical Proposals based on the Department’s initial review and ranking of the Proposal pursuant to Section 5.3 (*Initial Technical Proposal Evaluation and Ranking*), shall be offered an opportunity to participate in an interview with the Department (to be conducted by the Department “selection panel” in accordance with IC § 8-23-9.5-17(d)) with during which the Proposer and the Department will engage in oral exchanges. Proposers may elect to accept the Department’s offer or decline participation in an interview, in which latter case, the Proposer will have been deemed to have withdrawn its Proposal under Section 4.3 (*Proposal Validity Period; No Withdrawal of Proposals*) and waived any right at law or in equity to protest any part of the solicitation. If such a withdrawal occurs prior to the selection of the Apparent Selected Proposer, the Department reserves the right to offer the opportunity to interview to the Proposer that submitted the next highest-ranking Technical Proposal.

Interviews are anticipated to occur in-person at the Department Central Office in Indianapolis. The Department intends to provide additional information regarding the format of the interviews prior to the Proposal Due Date. No such interview shall be open to the public.

The Proposer may bring to its interview any material it believes may assist the Department in the evaluation process. The Proposer shall attend the interview with all Key Personnel except as otherwise approved by the Department in writing prior to the interview in the case of unavailability due to illness, vacation, or other scheduled leave; and provided that the Proposer’s Project Manager shall in all instances be required to attend the interview and be prepared to fully address any questions that would otherwise be posed to any absent Key Personnel. The Proposer may bring other individuals so long as the total number of attendees does not exceed 10 individuals.

### **5.5 Technical Proposal and Interview Evaluation**

The Department will evaluate and score the information presented in the Technical Proposals and interviews based upon the following categories:

#### **5.5.1 Experience of the Proposer and Identified Contractors**

Firm experience will be evaluated on:

- (1) The extent to which the Proposer’s experience demonstrates experience relevant to the size, complexity, and composition of the anticipated Project;
- (2) The extent to which the Proposer demonstrates proven experience working with owners to develop and implement innovative, cost saving, and value additive concepts; and
- (3) The extent to which the Proposer’s experience demonstrates relevant experience that will improve the likelihood of successful project delivery.

The Department will consider all relevant legal entity experience that demonstrates the likelihood of successful project delivery in its evaluation and scoring.

### 5.5.2 Key Personnel Experience

Key Personnel Experience will be evaluated based on the extent to which:

- (1) The Key Personnel meet or exceed preferred requirements for qualifications and experience; and
- (2) The experience of each Key Personnel included work of a similar scope, nature, and complexity as the Project.

### 5.5.3 Project Understanding and Approach

The evaluation of the Proposer’s Project understanding and approach (both with respect to Preconstruction Work and Construction Work) will be based on the extent the Proposer demonstrates:

- (1) a general management structure and resourcing approach that facilitates coordination and collaboration among the parties involved in the Project in a manner that is aligned with progressive design-build delivery;
- (2) an understanding of the Project and alignment of the approach with Project goals;
- (3) technical and management approaches that will increase the likelihood of Project success; and
- (4) an understanding of the principles of progressive design-build and effective approaches to performing key preconstruction and construction activities.

Table 3 (*Distribution of Points*) shows the maximum points allocated to each category.

**Table 3: Distribution of Points**

| Maximum Score |
|---------------|
|---------------|

|  |            |
|--|------------|
| <b>Experience of the Proposer and Identified Contractors</b> | 20 points  |
| <b>Key Personnel Experience</b>                              | 40 points  |
| <b>Project Understanding and Approach</b>                    | 40 points  |
|  | 100 points |

## 5.6 Final Scoring and Announcement

The Department intends to identify the Proposer with the highest overall score as the Apparent Selected Proposer. Following completion of the interviews conducted pursuant to Section 5.4 (*Interview*), the Department (through its “selection panel” as described in IC § 8-23-9.5-17(e)) shall finalize scoring for each Proposer that was interviewed (such final scoring to be based upon the submitted Technical Proposals and information learned during the interview process, and utilize the evaluation factors set forth in Section 5.5 (*Technical Proposal and Interview Evaluation*) and distribution of points set forth in Table 3 (*Distribution of Points*)), and the Commissioner of the Department shall make a final determination as to the Apparent Selected Proposer in accordance with IC § 8-23-9.5. Following such determination, the Department shall notify the Proposers of such selection, following which the Department and the Apparent Selected Proposer shall each endeavor to negotiate mutually acceptable Contract Documents.

## 5.7 Finalization and Execution of Agreement

Except as expressly set forth in this Section 5.7, the form of Agreement attached as Attachment A (*Form of Agreement*) is not intended to be negotiated in form or substance with the Apparent Selected Proposer. By submitting its Proposal, each Proposer commits to enter into the form of Agreement, without variation, except to fill in blanks and include information that the form of Agreement indicates is required from the Proposal, and as otherwise set forth in this Section 5.7.

Promptly upon notification of selection as the Apparent Selected Proposer, the Apparent Selected Proposer and the Department shall engage in negotiations to determine the “Preconstruction Phase Cost Cap” under the Agreement. The Preconstruction Phase Cost Cap amounts to valuation of the anticipated Preconstruction Phase scope of work and shall be determined utilizing the Preconstruction Work Hourly Rates approved by the Department’s External Audit division pursuant to Section 3.7 (*Preconstruction Work Hourly Rates*), unless the Department elects in its sole discretion to further negotiate such Preconstruction Work Hourly Rates. The Department anticipates seeking hours estimates from the Apparent Selected Proposer, and when agreed, shall calculate the Preconstruction Phase Cost Cap based upon those hours and the previously-submitted, binding Preconstruction Work Hourly Rates.

The Department may require, as condition precedent to its execution of the Agreement, a guaranty of the Progressive Contractor’s obligations under the Agreement by a Guarantor in the form set forth in Exhibit I (*Form of Guaranty*) to the Agreement and subject to the requirements set forth in the Agreement. The Department anticipates requiring such a Guaranty where the Progressive Contractor is a non-capitalized or special purpose entity, and further reserves the right to require such a Guaranty where in the Department’s sole discretion necessitated by the Proposer’s organizational structure or financial capacity.

Additionally, the Proposer may raise as points of negotiation proposed modifications to the Agreement raised in questions submitted using Form D (Proposer Questions) (to be construed narrowly to include only modifications specifically requested thereunder) prior to the submittal deadline therefore specified in Section 1.5 (Procurement Schedule). The Department shall consider, and may elect, but is not obligated, to accept any such proposed modifications. Any negotiations elected by the Department shall be limited to the proposed points of negotiation and nothing else. This notwithstanding, the Department may also elect, in its sole discretion, to negotiate various other aspects of the Contract Documents and scope of Work with the Apparent Selected Proposer. The Apparent Selected Proposer shall be deemed to have committed to attend and actively participate in reasonably scheduled negotiation meetings with the Department.

If the Department is unable to negotiate mutually acceptable Contract Documents with the Apparent Selected Proposer (including a failure to agree on a Preconstruction Phase Cost Cap that the Department and highest scoring Proposer each determine to be fair and reasonable, or if the Apparent Selected Proposer does not provide sufficient information or timely feedback to finalize the Agreement in accordance with schedule set forth in Section 1.5 (Procurement Schedule)), then the Department shall terminate negotiations with the Apparent Selected Proposer and may then undertake negotiations with the Proposer with the next Proposer, designated by the Commissioner, as the new Apparent Selected Proposer, and continue in this manner until an agreement is reached or until a determination is made by the Department to reject all submitted Proposals. The first Proposer designated by the Commissioner (or where the Department is unable to negotiate a contract with the first such designee, the Proposer with which the Department is engaged with in negotiations in accordance with the procedures set forth in Section 5.6 (Final Scoring and Announcement)), shall be the “Apparent Selected Proposer”.

Upon finalization of the Agreement, the Apparent Selected Proposer shall provide the Department with an executed copy within five business days of the Department’s request therefore.

#### **5.8 Delivery of P&P Bonds**

The P&P Bonds, in accordance with Agreement Section 29 (Payment and Performance Security), shall be in place for the Apparent Selected Proposer at the time of the Progressive Contractor’s execution of the Agreement and as a condition precedent to the Department’s execution thereof. Failure of the Apparent Selected Proposer to comply with the foregoing requirement may result in the Department disqualifying such Proposer and undertaking negotiations with the next highest scoring Proposer, and preclusion of the Proposer from future contracting opportunities with the Department.

#### **5.9 Public Posting of Scoring and Technical Proposals; Proposer Debrief**

The Department shall, following execution of the Agreement, publish on its website the Department’s final scoring of each Proposer that submitted a Proposal and a copy of the “Technical Proposal” section of each Proposal. Unsuccessful Proposers may request in writing (no later than 30 days following execution of the Agreement), and the Department shall provide, an explanation of the reasons such Proposer was not chosen as the Apparent Selected Proposer.

## SECTION 6 MISCELLANEOUS PROVISIONS

### 6.1 Reserved Rights

The Department reserves to itself all rights (which rights shall be exercisable by the Department in its sole discretion) described herein and available to it by law, including, without limitation, with or without cause, and with or without notice, the right to:

- (1) Develop the Project in any manner that it deems necessary or desirable.
- (2) Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the Proposals, including reference to personal knowledge of evaluators or the corporate knowledge of the Department and to make judgments where evaluations of the Proposals admit of judgements.
- (3) Modify, withdraw, or cancel this solicitation in whole or in part at any time prior to the execution of the Agreement by the Department, including modification of dates, without incurring any costs, obligations, or liabilities.
- (4) Issue a new RFP after withdrawal of this RFP under any procurement method authorized under State law.
- (5) Accept or reject any and all submittals, responses, and Proposals received at any time.
- (6) Modify the RFP process (with appropriate notice to Proposers).
- (7) Issue amendments, supplements, and modifications to the RFP.
- (8) Add or delete Proposer responsibilities from the information contained in the RFP.
- (9) Require confirmation of information furnished by a Proposer, require additional information from a Proposer concerning its Proposal, and require additional evidence of qualifications to perform the Work.
- (10) Waive any informalities, irregularities, or omissions in a Proposal, permit corrections, and seek and receive clarifications to a Proposal.
- (11) Seek the assistance of outside technical experts and consultants in evaluating the Proposals.
- (12) Terminate evaluation of any Proposal, submittal, or response at any time.
- (13) Negotiate with a Proposer without being bound by any provision in its Proposal.
- (14) Suspend, discontinue, or terminate negotiations with any Proposer at any time, or elect not to commence negotiations with any responding Proposer and engage in negotiations with other than the highest ranked Proposer, prior to the actual authorized execution of an agreement by all parties.
- (15) Modify electronic document file names.

(16) Disqualify any Proposer that violates any rules, constraints, requirements or the terms of the procurement specified in the RFP, applicable law, or any other communication from the Department.

(17) Exercise any other right reserved or afforded to the Department under this RFP or applicable law or in equity.

The Department assumes no obligations, responsibilities, and liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties responding to this RFP. All such costs shall be borne solely by the Proposer.

## **6.2 Criminal Penalty**

Pursuant to IC § 8-23-9.5(27), it is a Class C infraction for a Proposer to make a false statement regarding the financial worth of the Proposer in a Proposal or other written instrument filed by the Proposer with the Department in connection with this procurement. A Proposer convicted of violating such prohibition will be disqualified from submitting bids on contracts advertised for letting by the Department for a period of two years following the date of conviction.

**ATTACHMENT A**  
**FORM OF AGREEMENT**  
*[see attached]*



**FORM A**  
**PROPOSAL LETTER**

Proposer:

[Proposal Date]

Indiana Department of Transportation  
100 N. Senate Avenue  
Indianapolis, Indiana 46204  
Attn: Brian W. Shattuck, Major Projects Project Manager

The undersigned (Proposer) submits this proposal in response to the Request for Proposals (RFP) issued by the Indiana Department of Transportation (the Department) for a contract counterparty to enter into a progressive design-build contract (Agreement) to develop the SR 32 Progressive Design-Build project (Project) as more specifically described in the documents provided with the RFP. Capitalized terms that are used but not defined in this proposal shall have the meanings set forth in the RFP.

The undersigned undertakes [jointly and severally] ***[NTD: If Proposer is a joint venture or association other than a corporation, limited liability company or a partnership, leave in words “jointly and severally” and delete the brackets; otherwise delete the entire phrase]*** and agrees that the Proposer shall keep this proposal open for acceptance for 150 days after the Proposal Due Date without unilaterally varying or amending its terms and without any member or partner withdrawing or any other change being made in the composition of the entity on whose behalf this Proposal is submitted, without first obtaining the prior written consent of the Department, in the Department’s sole discretion.

If selected by the Department, the Proposer agrees:

1. to negotiate the terms of the Agreement with the Department in good faith and in accordance with the requirements of the RFP, if applicable;
2. to enter into and perform its obligations as set forth in the Agreement, including compliance with all commitments contained in its Proposal, and without varying or amending the terms of the Agreement (except for modifications agreed to by the Department in its sole discretion);
3. to satisfy all other conditions to award of the Agreement; and
4. to perform its obligations as set forth in the instructions to Proposers under the RFP, as amended, and the form of Agreement, including compliance with all commitments contained in this Proposal.

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

1. Administrative Proposal; and
2. Technical Proposal.

Proposer acknowledges the following:

1. Proposer has received and reviewed the RFP and all RFP Amendments, and certifies that it has carefully examined and is fully familiar with all provisions of the RFP, as amended, and is satisfied

that such provisions provide sufficient detail regarding the Work to be performed and do not contain internal inconsistencies.

2. Proposer acknowledges and will not challenge Department's reserved rights.
3. Proposer represents that all statements made in the Proposal are true, correct, and accurate as of the date hereof.
4. Proposer understands that the Department is not bound to accept any Proposal that it may receive.
5. Proposer understands that all costs and expenses incurred by it in preparing this Proposal and participating in the RFP process will be borne solely by the Proposer.
6. Proposer consents to the Department's disclosure of its Proposal pursuant to the applicable provisions of Indiana law after award of the Agreement.
7. Proposer agrees that the Department will not be responsible for any errors or omissions in its Proposal.
8. Proposer acknowledges and agrees that, under IC § 8-23-9.5(1)(c), participation, selection, entering into a contract with the Department, and performance of the Work thereunder, does not limit or eliminate the responsibility or liability imposed by Indiana law on Proposer (and Proposer's affiliated contract counterparty to the Department under the Agreement) in providing services to the Department pursuant to the enabling legislation for this solicitation, including IC § 8-23-9.5, as amended.
9. Proposer has submitted all Preconstruction Work Hourly Rates to the Department's External Audit Division in accordance with Section 3.7 (*Preconstruction Work Hourly Rates*) as of the Proposal Due Date.
10. Proposer acknowledges and agrees that, in the event the Proposer is selected as the Apparent Selected Proposer, the Proposer's Preconstruction Work Hourly Rates as approved by the Department's External Audit division shall be binding upon the Proposer and shall be utilized in determining the Preconstruction Phase Cost Cap under the Agreement (unless the Department elects in its sole discretion to further negotiate the Preconstruction Phase Cost Cap), under the terms, and subject to the conditions, of the Agreement thereafter.
11. Proposer has not in any manner substantively modified the content of any RFP form submitted with this Proposal except as expressly permitted under the applicable form.

[To be signed by the Proposer Authorized Representative, use appropriate signature blocks]

Sample signature block for corporation or limited liability company:

[*Proposer Name*]

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

Signature

\_\_\_\_\_  
Typed or Printed Name

Title

---

Date

Sample signature block for partnership or joint venture:

[*Proposer Name*]

By: [General Partner or Member's Name]

By:

---

Signature

---

Typed or Printed Name

---

Title

---

Date

Sample signature block for attorney in fact:

[*Proposer Name*]

For: [Name]

By:

---

Signature

---

Typed or Printed Name

---

Title

---

Date

Proposer's Business Address:

[Name]

[Street Address]

[City, State, ZIP]

[Country]

Proposer's State or Country of Incorporation: [State or Country]

## FORM B

### PROPOSER AND IDENTIFIED CONTRACTOR CERTIFICATION

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

**Instructions:** Proposer and each Identified Contractor shall accurately answer the following certifications. With respect to the Proposer, the term “affiliate” shall mean (1) any other organization that is under common ownership with the Proposer; and (2) any equity owner.

The Proposer/Identified Contractor certifies that:

1. It has carefully examined and is fully familiar with all provisions of the RFP, has reviewed all materials provided, any RFP amendments, and the Department’s responses to questions, and is satisfied that the RFP provides sufficient detail regarding the obligations to be performed and does not contain internal inconsistencies.
2. The information and supporting data provided by the Proposer/Identified Contractor is accurate and complete to the best of its knowledge.
3. It has carefully checked all the words, figures, and statements in the Proposal.
4. It has notified the Department of any identified deficiencies and omissions in the RFP and other documents provided by the Department.
5. The Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, joint venture, limited liability company, or corporation; the Proposal is genuine and not collusive or sham; the Proposer/Identified Contractor has not directly or indirectly induced or solicited any other Proposer to put in a false or sham Proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any Proposer or anyone else to put in a sham Proposal or that anyone shall refrain from proposing; the Proposer/Identified Contractor has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the prices of the Proposer or any other proposers, or to fix any overhead, profit, or cost element included in the Proposal, or of that of any other proposer, or to secure any advantage against the Department of anyone interested in the proposed agreement; all statements contained in the Proposal are true; and, further, the Proposer/Identified Contractor has not, directly or indirectly, submitted its prices or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, joint venture, limited liability company, organization, proposal depository, or any member, partner, joint venturer, or agent thereof to effectuate a collusive or sham proposal.
6. Proposer has not and will not engage any restricted firms listed in Section 3.3 (Restricted Firms), if selected as the Progressive Contractor, to carry out the Project responsibilities potentially allocated to it;

7. Its responses to the following statements are true and accurate. Except where otherwise noted, all timeframes set forth below shall be measured from the date of issuance of the RFP. Please indicate yes or no for each row.

| Question # | Yes/No | Description  |
|------------|--------|--|
| 1          |        | The Proposer/Identified Contractor or its affiliates have sought protection under any provision of any bankruptcy act in the past ten years.   |
| 2          |        | The Proposer/Identified Contractor or its affiliates have been disqualified, removed, debarred or suspended from performing work for the federal government, any state or local government, or any foreign governmental entity in the past ten years.  |
| 3          |        | The Proposer/Identified Contractor or its affiliates have been indicted or convicted of bid (i.e., fraud, bribery, collusion, conspiracy, antitrust, etc.) or other contract related crimes or violations or any other felony or serious misdemeanor in the past ten years.  |
| 4          |        | The Proposer/Identified Contractor or its affiliates have been found, adjudicated or determined by any federal or state court or agency (including, but not limited to, the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance Programs and any applicable Indiana governmental agency) to have violated any laws or Executive Orders relating to employment discrimination or affirmative action, including but not limited to Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. Sections 2000e <i>et seq.</i> ); the Equal Pay Act (29 U.S.C. Section 206(d)); and any applicable or similar Indiana law in the past ten years. |
| 5          |        | The Proposer/Identified Contractor or its affiliates have been found, adjudicated, or determined by any state court, state administrative agency, including, but not limited to, the Indiana Department of Labor, federal court or federal agency, to have violated or failed to comply with any law or regulation of the United States or any state governing any of common construction wages, (prevailing wages) (including but not limited to payment for health and welfare, pension, vacation, travel time, subsistence, apprenticeship or other training, or other fringe benefits) or overtime compensation in the past ten years.                                       |
| 6          |        | The Proposer/Identified Contractor or its affiliates have been convicted of violating a state or federal law respecting the employment of undocumented aliens in the past ten years.   |
| 7          |        | The Proposer/Identified Contractor or its affiliates have been found liable in a civil suit or found guilty in a criminal action for making any false claim or other material misrepresentation to a public entity in the past ten years.  |
| 8          |        | The Proposer/Identified Contractor or its affiliates have performed or managed any construction project that involved serious, repeated or multiple  |

| Question # | Yes/No | Description  |
|------------|--------|--|
|            |        | failures to comply with safety rules, regulations, or requirements in the past ten years.  |
| <b>9</b>   |        | The Proposer/Identified Contractor or its affiliates have, with respect to questions 1 – 8 above, if not previously answered or included in a prior response on this form, been involved in 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 above and/or subject to debarment, suspension, removal or disqualification by the federal government, any state or local government, or any foreign governmental entity in the past ten years.   |
| <b>10</b>  |        | The Proposer/Identified Contractor or its affiliates have had any instance where it submitted a bid on a public works project and found to be nonresponsive or found by an awarding body not to be a responsible bidder in the past ten years.   |
| <b>11</b>  |        | The Proposer/Identified Contractor or its affiliates have had any settled adverse claim, dispute or lawsuit with the owner of a public works project during the last five years in which the claim, settlement or judgment exceeded fifty thousand dollars (\$50,000) in the past five years.  |
| <b>12</b>  |        | The Proposer/Identified Contractor or its affiliates have had liquidated damages assessed against it during or after completion of a contract in the past five years (if yes, please explain the circumstances, including the amount and basis for the assessment (e.g., \$X total at \$Y/day) within <u>Form B</u> ). The foregoing does not include liquidated damages assessed, but subsequently determined non-payable by the applicable owner or in dispute resolution, due to justifiable delay or other mitigating circumstances.   |
| <b>13</b>  |        | The Proposer/Identified Contractor or its affiliates have had a surety for the firm or any affiliate complete a contract on the entity’s behalf or paid for completion because the entity was in default or terminated by the project owner in the past five years.  |
| <b>14</b>  |        | The Proposer/Identified Contractor or its affiliates have had any license, credential, or registration revoked or suspended in the past five years.  |
| <b>15</b>  |        | <p>The Proposer/Identified Contractor or its affiliates:</p> <p>(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;</p> <p>(b) have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for: (i) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) or private agreement or transaction; (ii) violation of federal or state antitrust</p> |

| Question # | Yes/No | Description   |
|------------|--------|---|
|            |        | <p>statutes (including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging); (iii) commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, or obstruction of justice; or (iv) commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects its present responsibility;</p> <p>(c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, State or local) with commission of any of the offenses enumerated in subsection (b) above;</p> <p>(d) have not within a three year period preceding this proposal had one or more public transactions (federal, State or local) terminated for cause or default;</p> <p>(e) if a corporation, have not been convicted of a felony violation under any Federal law within the two-year period preceding this proposal; and</p> <p>(f) if a corporation, does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.</p> |

If the answer to any item above is affirmative, the Proposer/Identified Contractor shall provide complete details about the matter in an attachment to this Form B. While an affirmative answer to any of these items will not automatically disqualify a Proposer from consideration, at the sole discretion of the Department, such an answer and a review of the background details may result in a rejection of the Proposal. The Department will make this decision based on its determination of the seriousness of the matter, the matter's possible impact on the Proposer's performance under the Agreement, and the best interest of the Department.

8. The Proposer/Identified Contractor will not, directly or indirectly, divulge information or data regarding the price or other terms of its Proposal to any other Proposer, or seek to obtain information or data regarding terms of any other Proposal, until after award of the Agreement or rejection of all Proposals and cancellation of the RFP.
9. The Proposer/Identified Contractor nor its affiliates, nor any of its proposed team that may work on or benefit from the Contract through the Proposer has a possible conflict of interest other than the conflicts identified immediately below, including any conflicts of interest identified under (a) 23 CFR Part 636 Subpart A; and (b) the Department Conflict of Interest Policy set forth in Agreement Exhibit H (*Department Requirements*), Attachment 1 (*Department Conflict of Interest Policy*). The Proposer/Identified Contractor should identify all relevant facts relating to past, present, or planned interest(s) of Proposer's team (including Proposer and the Identified Contractors, proposed consultants and subcontractors, and their respective chief executives, directors, and key project personnel) which may result, or could



be viewed as, an organizational conflict of interest in connection with this RFP. If no disclosure is necessary, indicate “None”.

| <i>Potential Conflicts (by person or entity affected) with explanation thereof</i> |
|--|
|  |

(Attach an additional sheet if more space is needed.)

10. To the extent DBE requirements are applicable to the Project, the DBE goal for the Project, once established in accordance with the Agreement, will be met by the Progressive Contractor obtaining commitments equal to or exceeding the DBE percentage or providing a good faith effort to substantiate the attempt to meet the goal.
11. To the extent DBE requirements are applicable to the Project, if awarded the Agreement, the Progressive Contractor shall submit a DBE Performance Plan meeting the requirements set forth in the Agreement.
12. The Proposer/Identified Contractor is either not subject to, or, if subject, has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2; has participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that, where required, has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President’s Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.
13. The Proposer/Identified Contractor will comply with the FHWA Buy America Requirements of 23 CFR 635.410, and the Build America, Buy America Act, Section 70913 *et seq.* of the Infrastructure Investment and Jobs Act, Pub. L. 117-58, which permits FHWA participation in the Agreement as more fully described in the Agreement.
14. No federal appropriated funds have been paid or will be paid, by or on behalf of the Proposer/Identified Contractor or its affiliates, to any person (as defined in 2 CFR § 418.105(1)) for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person or entity for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Proposer/Identified Contractor will complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions. The firm/entity for which the undersigned is

making this certification also agrees that it shall require that the language of this certification be included in all contractor agreements including lower tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly. Any person (as defined in 2 CFR § 418.105(l)) who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

15. The Proposer/Identified Contractor is properly authorized under the laws of the State of Indiana to conduct business in this state; is duly registered with the Indiana Secretary of State to the extent required by Indiana law; and will remain in good standing to do business in the State of Indiana for the duration of the Agreement.
16. The Proposer/Identified Contractor is not delinquent on any state taxes or fees owed to the State of Indiana and will remain in good standing for the duration of the Agreement.
17. [If selected as the Apparent Selected Proposer, the Proposer shall endeavor to negotiate mutually acceptable Contract Documents with the Department.][***NTD: applicable only to the Proposer; omit for all other entities not comprising the Proposer***]

The Proposer/Identified Contractor agrees and acknowledges that, pursuant to IC § 8-23-9.5(27), it is a Class C infraction for a party to make a false statement regarding its financial worth in the Proposal or other written instrument filed by the Proposer with the Department in connection with this procurement. Any party convicted of violating such prohibition will be disqualified from submitting bids on contracts advertised for letting by the Department for a period of two years following the date of conviction.

[signature on succeeding page]

Under penalty of perjury, I certify that the foregoing is true and correct and that I am duly authorized to attest to these statements on behalf of the Proposer/Identified Contractor. ***[NTD: To be signed by authorized signatory or signatories of the Proposer (including, if the Proposer is a joint venture, a designated, authorized signatory or signatories for each joint venture member)]***

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Type or print name

\_\_\_\_\_  
Title of Officer signing

\_\_\_\_\_  
Name of Company

**FORM C**

**IDENTIFIED CONTRACTORS**

**Instructions:** Provide the information below for all Identified Contractors (as defined in RFP Section 1.1).

| <b>Name of Entity and Contact Information (head office address, representative, phone, fax, email)</b> | <b>DBE (Y/N)</b> | <b>Description of Work/Services To Be Performed By Entity</b> |
|--|------------------|---|
|  |                  |   |
|  |                  |   |
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|  |                  |   |
|  |                  |   |
|  |                  |   |
|  |                  |   |
|  |                  |   |

**FORM D**

**PROPOSER QUESTIONS**

| <b>No.</b> | <b>Document<br/>(RFP, Agmt)</b> | <b>Section</b> | <b>Question/Comment</b> |
|------------|---------------------------------|----------------|-------------------------|
|            |                                 |                |                         |
|            |                                 |                |                         |

**FORM E**

**FORM OF COMMITMENT LETTER**

**Instructions:** The Proposer shall complete this Form E for each Key Personnel position.

[DATE]

Indiana Department of Transportation  
100 N. Senate Avenue  
Indianapolis, Indiana 46204  
Attn: Brian W. Shattuck, Major Projects Project Manager

RE: SR 32 Progressive Design-Build Project – Key Personnel Commitment Letter

[\_\_\_\_],

[KEY PERSONNEL FIRM] commits that, if Department awards the SR 32 Progressive Design-Build Project to [PROPOSER], [KEY PERSONNEL NAME] will be dedicated to the Project as the [KEY PERSONNEL ROLE].

|                       |       |
|-----------------------|-------|
| _____                 | _____ |
| Signature             | Title |
| _____                 | _____ |
| Typed or Printed Name | Date  |

I, [KEY PERSONNEL NAME], certify that after Notice to Proceed, I will be committed to the Project during the tenure of my employment with [KEY PERSONNEL FIRM], and available as required to ensure the successful completion of the Project as the [KEY PERSONNEL ROLE].

|                       |       |
|-----------------------|-------|
| _____                 | _____ |
| Signature             | Title |
| _____                 | _____ |
| Typed or Printed Name | Date  |

In the table below, provide the percent level of the Key Personnel's time that will be dedicated to the Project. Completing the explanation column is not required, but, if included, should be brief.

| <b>Preconstruction<br/>Phase</b> | <b>Construction<br/>Phase</b> | <b>Explanation</b> |
|----------------------------------|-------------------------------|--------------------|
|                                  |                               |                    |

## FORM F

### PREQUALIFICATION IDENTIFICATION

*[This form will be used to provide information about the team members, as of the Proposal Due Date, required for the Proposer team to satisfy the Prequalification Work Type Certification requirements set forth in RFP Section 3.5.]*

**Proposer Name** \_\_\_\_\_

1. The Proposer and any Identified Contractor each hold a Department “Certificate of Qualification” (<https://www.in.gov/indot/2740.htm>):

YES       NO

2. The Proposer has a Department “Certificate of Qualification” for at least the anticipated total funding for the Project, as described in RFP Section 1.6 (Anticipated Project Funding) (i.e. \$44.5 million) as of the Proposal Due Date:

YES       NO

3. Proposer or an Identified Contractor holding one of the Department construction prequalifications described in RFP Section 3.5(2) (Department Prequalification) (i.e. Heavy Grading, Asphalt Pavement: w/o INDOT Cert HMA Plant, Asphalt Pavement: w/ INDOT Cert HMA Plant, Concrete Pavement: General, or Highway or Bridge Over Water): ***[NTD: only one prequalification is required, but Proposers may expand table as necessary if more than one of the prequalifications is held by the Proposer team]***

| Proposer or Identified Contractor | Prequalification Work Type/Prequalification |
|-----------------------------------|---|
|                                   |   |

4. The following consultant prequalifications are each held by the Proposer or an Identified Contractor as indicated below:

| Prequalification Work Type | Prequalification                                 | Proposer Team Member Satisfying Prequalification |
|----------------------------|--|--|
| 3.2                        | Complex Traffic Capacity and Operations Analysis |  |
| 4.1                        | Traffic Safety Analysis                          |  |
| 7.1                        | Geotechnical Engineering Services                |  |



|      |                                   |  |
|------|-----------------------------------|--|
| 8.2  | Complex Roadway Design            |  |
| 8.3  | Roundabout Design                 |  |
| 9.1  | Level 1 Bridge Design             |  |
| 10.1 | Traffic Signal Design             |  |
| 10.3 | Complex Roadway Sign Design       |  |
| 10.4 | Lighting Design                   |  |
| 16.1 | Utility Coordination              |  |
| 17.3 | Storm Sewer and Detention Design  |  |
| 18.1 | Pavement Analysis-Design Services |  |

## **FORM G**

### **OTHER DEPARTMENT REQUIREMENTS**

- Form G-1      Drug-Free Workplace Certification**
- Form G-2      Employment Eligibility Verification Certification**
- Form G-3      No Investment in Iran Certification**
- Form G-4      Non-Collusion Affidavit**

## FORM G-1

### Drug-Free Workplace Certification

**TO BE COMPLETED BY PROPOSER AS "PROGRESSIVE CONTRACTOR"**

Capitalized terms have the meanings ascribed in that certain Agreement, by and between [\_\_\_\_\_], as "Progressive Contractor" and the Indiana Department of Transportation, as "Department" with respect to the SR 32 Progressive Design-Build project (the "Agreement").

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

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

A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Progressive Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) Progressive Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify Progressive Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

D. Notifying the Project Sponsors and the Indiana Department of Administration in writing within 10 days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

E. Within 30 days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

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

The undersigned affirms, under penalty of perjury that he or she is authorized to execute this Certification on behalf of Progressive Contractor.

Dated \_\_\_\_\_

**Progressive Contractor**

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

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

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

***[NTD: To be signed by authorized signatory or signatories of the Proposer (including, if the Proposer is a joint venture, a designated, authorized signatory or signatories for each joint venture member)]***

**FORM G-2**

**Employment Eligibility Verification Certification**

***TO BE COMPLETED BY PROPOSER AS "PROGRESSIVE CONTRACTOR"***

Capitalized terms have the meanings ascribed in that certain Agreement, by and between [\_\_\_\_\_], as "Progressive Contractor" and the Indiana Department of Transportation, as "Department" with respect to the SR 32 Progressive Design-Build project (the "Agreement").

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

- (a) The Progressive Contractor shall enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program as defined in IC § 22-5-1.7-3.
- (b) The Progressive Contractor shall not knowingly employ or contract with an unauthorized alien. The Progressive Contractor shall not retain an employee or contract with an individual person that the Progressive Contractor subsequently learns is an unauthorized alien.
- (c) The Progressive Contractor shall require its Subcontractors who perform work under the Agreement to provide the certifications set forth in Paragraphs (a) and (b) above to the Progressive Contractor. The Progressive Contractor agrees to maintain this certification throughout the duration of the term of each Subcontract.

The undersigned affirms, under penalty of perjury that he or she is authorized to execute this certification on behalf of Progressive Contractor.

Dated \_\_\_\_\_

**Progressive Contractor**

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

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

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

***[NTD: To be signed by authorized signatory or signatories of the Proposer (including, if the Proposer is a joint venture, a designated, authorized signatory or signatories for each joint venture member)]***

**FORM G-3**

**No Investment in Iran Certification**

**[TO BE COMPLETED BY PROPOSER AS "PROGRESSIVE CONTRACTOR"]**

Capitalized terms have the meanings ascribed in that certain Agreement, by and between [\_\_\_\_\_], as "Progressive Contractor" and the Indiana Department of Transportation, as "Department" with respect to the SR 32 Progressive Design-Build project (the "Agreement").

Progressive Contractor has not, nor has any successor to, nor an affiliate of, Progressive Contractor, engaged in investment activities in Iran. For purposes of this certification:

a. "Iran" means the government of Iran and any agency or instrumentality of Iran, or as otherwise defined at IC § 5-22-16.5-5, as amended or supplanted from time-to-time.

b. Activities that qualify as engaging in investment activities in Iran shall be as set forth in IC § 5-22-16.5-8, as amended or supplanted from time-to-time.

The undersigned affirms, under penalty of perjury that he or she is authorized to execute this certification on behalf of Progressive Contractor.

Dated \_\_\_\_\_

**Progressive Contractor**

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

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

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

**[NTD: To be signed by authorized signatory or signatories of the Proposer (including, if the Proposer is a joint venture, a designated, authorized signatory or signatories for each joint venture member)]**

FORM G-4

Non-Collusion Affidavit

**[NTD: TO BE COMPLETED BY PROPOSER (INCLUDING, IF THE PROPOSER IS A JOINT VENTURE, EACH JOINT VENTURE MEMBER) AND EACH IDENTIFIED CONTRACTOR]**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

The undersigned, being first duly sworn, deposes and says that:

A. [\_\_\_\_\_] is the [\_\_\_\_\_] of [\_\_\_\_\_] **[NTD: insert signatory and entity name]**, which entity is [the Proposer]/[a member of the Proposer joint venture team]/[an Identified Contractor for [\_\_\_\_\_] **[NTD: specify Proposer, member of the Proposer joint venture team, or Identified Contractor as applicable (and include Proposer name in blank if an Identified Contractor)]**], the entity giving a "Proposal" under that certain Request for Proposals to design and construct the SR 32 Progressive Design-Build project through a progressive design-build agreement.

B. The Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, joint venture, limited liability company or corporation; the Proposal is genuine and not collusive or sham; Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham Proposal, and has not directly or indirectly colluded, conspired, connived or agreed with any Proposer or anyone else to put in a sham Proposal or that anyone shall refrain from proposing; Proposer has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the prices of Proposer or any other Proposer, or to fix any overhead, profit or cost element included in the Proposal, or of that of any other Proposer, or to secure any advantage against the Indiana Department of Transportation or anyone interested in the proposed agreement; all statements contained in the Proposal are true; and, further, Proposer has not, directly or indirectly, submitted its prices or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, joint venture, limited liability company, organization, Proposal depository or any member, partner, joint venture member or agent thereof to effectuate a collusive or sham Proposal.

C. Proposer will not, directly or indirectly, divulge information or data regarding the terms of its Proposal to any other Proposer, or seek to obtain information or data regarding the price or other terms of any other Proposal, until after award of the Agreement or rejection of all Proposals and cancellation of the RFP.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name Printed)

\_\_\_\_\_  
(Name Printed)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

Notary Public in and for  
said County and State

[Seal]

My commission expires: \_\_\_\_\_.

*[Duplicate or modify this form as necessary so that it accurately describes (i) the entity making the Proposal and so that it is signed by and on behalf of all partners, members, joint venture members, and (ii) each Identified Contractor]*

***[NTD: To be signed by authorized signatory or signatories of the Proposer (including, if the Proposer is a joint venture, a designated, authorized signatory or signatories for each joint venture member)]***



**FORM H**

**ACC ACCESS/PROPOSER AUTHORIZED REPRESENTATIVE DESIGNATION FORM**

**SR 32 PROGRESSIVE DESIGN-BUILD PROJECT**

**ACC ACCESS/PROPOSER AUTHORIZED REPRESENTATIVE DESIGNATION FORM**

**DATE:** \_\_\_\_\_

**NAME OF PROPOSER:** \_\_\_\_\_

**PROPOSER AUTHORIZED REPRESENTATIVE:**

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

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

Telephone Number: \_\_\_\_\_

**ACC ACCESS REQUEST:** Proposer, through the Proposer Authorized Representative identified above, requests access to the Project's Autodesk Construction Cloud (ACC) site for purposes of access to information regarding and submissions relating to the procurement with respect to the Project identified above.

**FORM I**

**PROPOSER-SPECIFIC AGREEMENT INPUTS**

| <b>Required Awardee/Progressive Contractor Input</b>  | <b>Relevant Agreement Section(s)</b> | <b>Awardee/Progressive Contractor Information</b> |
|---|--------------------------------------|---|
| Progressive Contractor legal name   | Recitals, 32.6.1                     |   |
| Confirmation of Progressive Contractor legal organization (e.g., LLC, corporation, joint venture) | Recitals; 32.6.1                     |   |
| Progressive Contractor legal entity state of formation  | Recitals; 32.6.1                     |   |
| Progressive Contractor Authorized Representative name, physical address, and email address        | 33.5.1.3                             |   |
| Progressive Contractor signature block  | Signature Page                       |   |