



**FORM R**  
**NICTD NON-DISCLOSURE AGREEMENT FOR CONDITIONAL**  
**ACCESS TO SENSITIVE SECURITY INFORMATION**

**PURPOSE and DEFINITIONS**

The Northern Indiana Commuter Transportation District (“NICTD”) is releasing a Notice of Request for Qualifications, a Request for Qualifications ("RFQ"), and related procurement documents (“Solicitation”) on a new rail project known as the West Lake Corridor Project (“Project”).

NICTD is required by law to protect sensitive security information (“SSI”). As used in this Agreement, SSI is that information defined in 49 CFR Part 15 and 1520 but also includes any information not specifically mentioned in Part 15 and 1520 but marked as “Sensitive Security Information” or “SSI”. No part of such record may be disclosed to persons without a “need to know”, as defined in 49 CFR Parts 15 and 1520. Disclosure may compromise the security of the traveling public, transit employees or transit infrastructure.

Certain pages that are included in the Solicitation documents, specifically certain architectural/engineering and design documents and technical requirements, contain SSI. Potential proposers for this Project that execute this Non-Disclosure Agreement ("Agreement") and agree to be bound by its terms, including potential subcontractors, regardless of whether such potential proposer ultimately submits a Statement of Qualification and/or Proposal on the Project, are considered individuals/entities with a “need to know” this SSI. NICTD reserves the right to evaluate all proposers and team members to confirm they are qualified to access SSI. NICTD desires to conditionally provide the SSI to the undersigned company (“Proposer”) for the purpose of evaluating the Solicitation and responding to the Notice of Request for Qualifications and related documents (“Purpose”), provided that the Proposer handles and further restricts the use of such SSI pursuant to the terms contained in this Agreement.

**TERMS**

Proposer is obligated to protect SSI from unauthorized disclosure, in accordance with the terms of this Agreement and all applicable laws. Proposer understands and agrees to the following terms and conditions:

1. **Use Restrictions.**
  - a. Proposer will use the SSI only to the extent necessary to accomplish the Purpose.
  - b. Proposer will disclose SSI to its employees, agents or representatives with a “need to know” only as may be necessary to accomplish the Purpose and only on the condition that each such party agrees to be bound by the same restrictions as set forth in this Agreement.

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- c. Proposer may copy or reproduce the SSI only as may be necessary to accomplish the Purpose provided that the reproduced material is marked and protected in the same manner as the original material.

- 2. **Identification of SSI.** Information, drawings or other documentation that have been designated as SSI will contain formal markings as provided by 49 CFR Part 1520.13. If Proposer discovers NICTD solicitation documents that should be considered SSI and are not so marked, Proposer will immediately notify NICTD's Director of Safety and Rules, at the e-mail address below, so that the document can be properly marked and protected. Proposer should treat those documents as if they were SSI until advised otherwise.

*[insert contact information for Director of Safety and Rules]*

- 3. **Handling SSI.** Proposer is required to take reasonable steps to protect SSI when it is in Proposer's control.

- a. **Protection.** SSI shall be protected at all times, either by appropriate storage or having it under the personal observation and control of a person authorized to receive it. Each person who works with SSI is personally responsible for taking proper precautions to ensure that unauthorized persons do not gain access to it.

- b. **Storage.** During working hours, reasonable steps shall be taken to minimize the risks of access by unauthorized personnel. After working hours, SSI shall be secured in a secure container, such as a locked desk, file cabinet or locked room. Electronic documents that contain SSI shall retain password protection not directly associated with that file.

- 4. **Disclosure of SSI.** Proposer agrees not to divulge any SSI that is provided to it pursuant to this Agreement to any third party, unless (i) the disclosure is necessary to accomplish the Purpose, (ii) such third party agrees to be bound by the same restrictions as set forth in this Agreement, and executes a copy of the Agreement, and (iii) Proposer shall be responsible for the proper handling and destruction of such SSI by such third party. If Proposer becomes aware or has reason to believe that any SSI may have been released to any unauthorized person or party, Proposer will immediately notify NICTD's Director of Safety and Rules.

- 5. **Destruction of SSI.** Proposer acknowledges that only the entity chosen as the Design-Builder for the Project has a continuing "need to know" the SSI beyond contract award. Proposer further acknowledges that only the Design-Builder for the Project has a continuing need for conditional access beyond execution of the Design-Build contract. As such, if not awarded the contract, Proposer, and any third parties to whom Proposer divulged SSI, will destroy the SSI completely to preclude recognition or reconstruction of the information immediately following execution of the Design-Build contract. SSI may be disposed of in any manner that prevents unauthorized retrieval. Proposer will certify that all destruction of SSI has occurred at the request of NICTD.

- 6. **Remedies.** Proposer acknowledges that the disclosure or use of SSI in violation of this Agreement shall give rise to irreparable injury to NICTD, inadequately compensable in monetary damages. Accordingly, in addition to any other legal or equitable remedies that may be available, the NICTD shall be entitled to equitable relief, including an injunction and specific performance, in the event of any breach or threatened breach of this Agreement by the Proposer.

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7. **Governing Law.** Proposer agrees that Indiana law shall govern all matters relating to this Agreement. Any and all actions arising under this Agreement shall be filed and maintained only in the state or federal courts sitting in Porter County, State of Indiana, notwithstanding any state's choice of law rules to the contrary, and the Proposer hereby consents to the exclusive jurisdiction and venue of such courts solely for the purpose of resolution of any such dispute.

**NOTICE AND AUTHORIZATION**

Proposer agrees to provide an email address to NICTD for implementation of this Agreement and to facilitate the transfer of SSI. NICTD or an authorized representative will send a username, password and link to a secure document sharing site to the email address provided by the Proposer below. All Solicitation documents, including SSI, are posted to the secure document sharing site. All notices regarding the Solicitation through the procurement process will also be delivered to this email address.

**Proposer Email Address:** \_\_\_\_\_

**Authorized Representatives.** Proposer represents that it has all necessary right, power and ability to enter into this Agreement, and that its undersigned representative has all necessary authority to execute this Agreement on its behalf.

**PROPOSER (Company)**      **Name:** \_\_\_\_\_  
   **Address:** \_\_\_\_\_  
   \_\_\_\_\_

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

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

**Printed Title:** \_\_\_\_\_

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

**END OF DOCUMENT**