

**ISTHA
PARTNERING FOR GROWTH (P4G) -
CONSTRUCTION for DBE PROTÉGÉ
AGREEMENT**

BETWEEN

***** (MENTOR) AND**

***** (PROTÉGÉ)**

This P4G - Construction Agreement ("Agreement") is between

("***" or "Protégé"), an _____ State corporation with its principal place of business
at

and

("***" or "Mentor"), an _____ Corporation with its principal place of business at

(collectively referred to as the "Parties").

Subject to the express prior approval of the Illinois State Toll Highway Authority (ISTHA
or Tollway), the parties agree to the following terms and conditions:

Table of Contents:

Agreement

Attachment A –Protégé Development Plan

Attachment B - Needs Assessment

Attachment C – Benchmarks/Milestones

Include additional Attachments as needed.

THE P4G PORTAL FILE MUST INCLUDE AND HAVE AVAILABLE FOR THE OVERSIGHT

COMMITTEE IF NEEDED, MENTOR AND PROTÉGÉ APPLICATIONS AND ALL RELATED DOCUMENTATION.

1. FIRM INFORMATION:

	MENTOR FIRM	PROTÉGÉ FIRM
Name of Firm:		
Address:		
Telephone/ext.:		
Website:	-	
FEIN:	-	
Brief description of firm services:		

2. TERM OF PERFORMANCE: (TERM OF DEVELOPMENTAL ASSISTANCE)

Number of Months:	
Anticipated Start Date:	
Anticipated Completion Date:	

3. MENTOR HISTORICAL BACKGROUND:

***Include a brief statement describing the Mentor firm. ***

4. MENTOR ELIGIBILITY

MENTOR FIRM:		ACKNOWLEDGEMENTS
1.0	Has greater than 7 years' work history?	Y / N
2.0	Has experience as a prime contractor?	Y / N
3.0	Has experience with Tollway work?	Y / N
4.0	Is in good standing with the State of Illinois and the Tollway?	Y / N
5.0	Has a P4G Mentor Application completed and processed through a Tollway Technical Assistance Program Portal - please specify which Program	<specify TA Program>
5.1	Date Mentor application approved through P4G Portal	<date>
6.0	Is an independent entity from proposed protégé?	Y / N
7.0	Performed due diligence in assessing this protégé?	Y / N
8.0	Acknowledges that utilization of the protégé as a subcontractor on Tollway or non-Tollway contracts is not required by this Agreement, nor is any incentive given to the Mentor for utilization of the protégé as a subcontractor	Y / N
9.0	Is IDOT prequalified?	Y / N
10.0	Specifies the Lead individual for implementing the P4G relationship in Section 13?	<name>
11.0	Makes a sincere commitment to the relationship	Y / N
12.0	Has or has had the following experience with other protégés:	
12.1	Currently?	Y / N
12.2	Previously?	Y / N
13.0	Has completed a Protégé Development Plan with the Protégé?	Y / N

5. PROTÉGÉ FIRM OWNERSHIP INFORMATION AND HISTORICAL BACKGROUND:

***Include a brief statement describing the Protégé firm and also a brief statement describing the ownership and all interests or 100% of shareholders of the Protégé firm plus any pertinent information. ***

6. PROTÉGÉ ELIGIBILITY

	PROTÉGÉ FIRM:	ACKNOWLEDGEMENTS
1	Is certified DBE per Tollway Special Provision for Disadvantaged Business Enterprise (DBE) Participation definition?	Y / N
1.1	Attach Letter(s) of Certification	
2	Is an independent entity from proposed mentor?	Y / N
3	Is in good standing with the State of Illinois and the Tollway?	Y / N
4	Has a P4G Protégé Application completed and processed through a Tollway Technical Assistance Program Portal - please specify which Program?	<specify TA Program>
4.1	Date Protégé Application approved through P4G Portal	<date>
5	Had the opportunity (ies) to meet potential Mentor firms?	Y / N
6	Performed due diligence in assessing this Mentor?	Y / N
7	Has greater than 3 years' work experience?	Y / N
8	Has been assessed by Tollway Technical Assistance?	Y / N
9	Is registered with IDOT as a subcontractor?	Y / N
10	Specifies the lead individual for implementing the P4G relationship in Section 13?	<name>
11	Makes a sincere commitment to the relationship?	Y / N
12	Has or has had the following experience with other mentors:	
12.1	Currently?	Y / N
12.2	Previously?	Y / N
13	Acknowledges that utilization of their firm as a subcontractor on Tollway or non-Tollway contracts is not required by this Agreement, nor is any incentive given to the Mentor for utilization of the Protégé as a subcontractor	Y / N
14	Has completed a Business Development Plan with the Protégé?	Y / N

7. PROTÉGÉ DEVELOPMENT PLAN:

***The Mentor and Protégé should jointly prepare a brief statement discussing the Protégé's*

needs as defined by both the Needs Assessment prepared by the Tollway's Technical Assistance and discussions during Mentor and Protégé matching process. This statement should also include:

- *A description of the needs of the Protégé and how the Mentor meets those needs.*
- *That the Mentor agrees to and will provide the following business assistance to the Protégé by itself and through use of outside consultants (as appropriate) as delineated in the Protégé Development Plan and the Metrics/Milestone Chart or equivalent. A template Metrics/Milestone listing is included with the template Agreement as Appendix A, and may be used as a reference document when generating the Protégé Development Plan and Metrics/Milestone Chart.*

*The Protégé Development Plan should be attached to this Agreement as **Attachment A**, and the Needs Assessment attached to this Agreement as **Attachment B**.*

8. MILESTONES AND BENCHMARKS

As stated in Section 7. Above, the parties have established and defined milestones, goals and benchmarks providing the identified developmental assistance, as illustrated in a Benchmarks/Milestone Chart or equivalent and attached hereto as **Attachment C**.

9. METRICS AND REPORTING

The Mentor and Protégé will submit required reports to the Illinois Tollway via the P4G Portal as specified in the P4G Guidelines. The Mentor and protégé also agree to follow-up reporting requirements after completion of the relationship. The Mentor and Protégé plan to address the following criteria to assess the Protégé's developmental progress under the program, including, but not limited to:

Planned tasks started on time
Planned tasks completed on time
Development initiatives behind or on scheduled
Number of certifications in progress and completed - D/M/WBE, BEP, small business, technical (IDOT prequalification, safety/OSHA, equipment, etc.)
Annual revenue of Protégé
Number, value and scope of all contracts <u>performed</u> by Protégé as subcontractor or as prime contractor /JV partner during term
Number, value and scope of all contracts <u>performed</u> by Protégé as subcontractor, prime contractor or JV partner with Mentor during term
Number of contracts, value and scope of contracts <u>bid</u> as subcontractor or prime/JV partner by Protégé during term
Timeliness of report submissions
Number of meetings between Mentor and Protégé
--telephone
--office
--field
Increase in bonding
Increase in financing
Increase in work scope experience
Increase in equipment owned/leased/supported by operator
Increase in workforce:
--full-time
--part-time
--seasonal
--laborer vs management
--key staff development (upward mobility in firm)
--number of hours worked by employees
Number and timeliness of check-ins with P4G portal
Other - specific to Protégé Development Plan

10. **TERMINATION PROCEDURES (MENTOR)**

Voluntary Termination by Mentor

Mentor may voluntarily terminate this agreement if it no longer wishes to participate in the Program. In such case, Mentor shall notify Protégé, Tollway P4G Portal and Oversight Committee in writing at least 30 calendar days in advance of its intent to voluntarily terminate the agreement.

For Cause

Mentor may elect to terminate the P4G - Construction Agreement for cause, the process for which follows:

- The Protégé must be furnished written notice by the Mentor of the proposed termination which states the specific reasons for such action. Notification to the Protégé must be made at least 30 calendar days prior to the effective date of the proposed termination.
- Protégé has 30 calendar days to respond to the proposed termination. Protégé may rebut any statements/claims it believes to be incorrect and may offer a remedy if necessary.
- Upon consideration of Protégé's response, Mentor must either withdraw the notice of proposed termination and continue in the agreement, or, issue of notice of termination.

The decision of the Mentor regarding termination for cause, if conforming to the requirements of this section, shall be final upon written consent by the Tollway Oversight Committee.

11. **VOLUNTARY TERMINATION BY THE PROTÉGÉ**

Protégé may voluntarily terminate this Agreement if it no longer wishes to participate in the Program as a Protégé to the Mentor. Protégé shall notify Mentor in writing at least 30 calendar days prior to such termination.

For Cause

Protégé may elect to terminate the P4G - Construction Agreement for cause, the procedure for which follows:

- The Mentor must be furnished written notice by the Protégé of the proposed termination which states the specific reasons for such action. Notification to the Mentor must be made at least 30 calendar days prior to

the effective date of the proposed termination.

- Mentor has 30 calendar days to respond to the proposed termination. Mentor may rebut any statements/claims it believes to be incorrect and may offer a remedy if necessary.
- Upon consideration of Mentor's response, Protégé must either withdraw the notice of proposed termination and continue in the agreement, or, issue of notice of termination.

The decision of the Protégé regarding termination for cause, if conforming to the requirements of this section, shall be final upon written consent by the Tollway Oversight Committee.

12. REVOCATION OF APPROVAL OF RELATIONSHIP BY THE TOLLWAY

The Tollway may revoke approval of this agreement during the reporting periods if Tollway finds that the Mentor has not complied with the provisions as set forth in this Agreement or that the assistance has not resulted in any material benefits or developmental gains to the protégé.

Conversely, The Tollway may revoke approval of this agreement during the reporting periods if Tollway finds that the Protégé has not complied with the provisions as set forth in this Agreement or that the assistance has not resulted in any material benefits or developmental gains to the Protégé.

The Tollway will notify Mentor and Protégé of its intent to revoke approval of the agreement. Both Mentor and Protégé may refute this action. In such case, Mentor and Protégé shall submit in writing, within 30 calendar days of the Tollway notification, reasons to continue the agreement and a proposed remediation plan.

13. NOTICES AND POINTS OF CONTACT (MENTOR)

The following individuals shall serve as the points of contact for administration of the Agreement and as such are authorized to receive all notices under this Agreement.

MENTOR	
PRIMARY CONTACT:	
NAME	
ADDRESS	
TELEPHONE	
EMAIL	
SECONDARY CONTACT:	
NAME	
TELEPHONE	
EMAIL	

14. NOTICES AND POINTS OF CONTACT (PROTÉGÉ)

The following individuals shall serve as the points of contact for administration of the Agreement and as such are authorized to receive all notices under this Agreement.

PROTÉGÉ	
PRIMARY CONTACT:	
NAME	
ADDRESS	
TELEPHONE	
EMAIL	
SECONDARY CONTACT:	
NAME	
TELEPHONE	
EMAIL	

15. REPORT & REVIEW REQUIREMENTS

Both Mentor and Protégé each agree to comply with the Program's reporting and review requirements in accordance with the P4G - Construction Guidelines, which includes quarterly and final reporting by Mentor and Protégé.

In addition, Protégé affirmatively states that it will provide employment data on: annual revenues, hiring, bonding, lines of credit and all prime and subcontracts for the two 12-month periods following the end of this agreement.

Program participants agree that interpretation of the Guidelines or regulations and award of P4G incentive credit shall rest with the Partnering for Growth – Construction Oversight Committee. Parties may feel free (and in fact are encouraged) to seek interpretation of any provision they find ambiguous or confusing. If both Participants so desire, they may jointly appeal any adverse Committee decisions to the Tollway’s Chief of Diversity and Strategic Development. These requests shall be in writing. The Chief’s determination shall be final.

16. NEEDS ASSESSMENT

In accordance with the Tollway Partnering for Growth – Construction Guidelines, the Protégé has had a Needs Assessment performed by one of the Tollway’s Technical Assistance providers, a copy of which is attached hereto as Attachment B.

17. EFFECT OF TERMINATION AND CONTINUING CONTRACT OBLIGATIONS

Termination of this Agreement shall not waive the obligations of the Mentor to perform its contractual obligations under any Tollway prime contract or other contracts being performed by the Mentor. Likewise, termination of this Agreement shall not waive the obligations of the Protégé to perform its contractual or subcontractual obligations under any under any Tollway sub-contract or other contracts being performed by the Protégé.

18. ADDITIONAL TERMS AND CONDITIONS

A. Status of the Parties/No Privity of Contract with the Tollway

This Agreement, in and of itself, does not constitute, create or give effect to or otherwise establish a joint venture agreement, partnership, or any other business or organization. Unless provided by the terms of another agreement consistent with the governing regulations, the parties hereto are and shall remain independent contractors.

Further, this agreement defines the relationship between the Mentor and the Protégé firms only. This agreement does not create any privity of contract between the Mentor and Tollway or the Protégé and Tollway.

B. **Modifications**

There shall be no modification of this Agreement unless such modification is in writing and signed by both parties to this Agreement. In addition, if required, the Tollway must approve all changes to this Agreement prior to such changes to take effect.

C. **Integrated Document**

This Agreement supersedes any and all previous understandings, commitments, or agreements, oral or written, pertaining to the P4G - Construction Agreement.

D. **Protection of Proprietary Information**

Each Party shall keep confidential and not disclose to any person (other than their respective directors, officers, employees, attorneys, accountants and the Tollway) or use (except in connection with the transactions contemplated by this Agreement) any non-public information with respect to the other party obtained pursuant to this Agreement. Any non-public information possessed by one of the parties concerning the other party will be returned upon the request of the other Party. This paragraph shall not be violated by disclosure of information which (i) at the time of disclosure is publicly available or become publicly available through no act or omission of the party under the duty of confidentiality (the "Receiving Party"), (ii) is disclosed in a non-confidential basis to the Receiving Party by a third party unless the Receiving Party knew or had reason to know that the third party breached an obligation of confidentiality in making such disclosure, (iii) is independently acquired or developed by the Receiving Party as a result of work carried out by the Receiving Party or an employee or contractor of such Receiving Party to whom no disclosure of such confidential information has been made, (iv) is disclosed with appropriate provisions for confidentiality in a judicial or arbitration proceeding to enforce such party's rights under this Agreement, (v) is disclosed as required by court order, or as otherwise required by law or regulation, or (vi) can be demonstrated to have been in the possession of the Receiving Party prior to the date of disclosure by the disclosing party.

E. **Limitation of Liability**

NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY AMOUNTS REPRESENTING LOSS OF PROFITS, LOSS OF BUSINESS, OR INDIRECT, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF THE OTHER PARTY, WHETHER SUCH DAMAGES ARE ALLEGED TO HAVE RESULTED FROM BREACH OF CONTRACT OR TORT, FOR ANYTHING RELATING TO OR ARISING OUT OF THIS

AGREEMENT.

F. Disputes, Governing Law and Jurisdiction

This Agreement is to be governed by the laws of the state of Illinois. The Parties shall, in good faith, expend commercially reasonable efforts to resolve amicably any claim or dispute as to any matter arising out of, or relating to, this Agreement ("Dispute").

G. Counterpart Execution

This Agreement may be executed in any number of counterparts with the same effect as if both parties had signed the same document. All counterparts shall be construed together and shall constitute one agreement. This Agreement is officially signed and executed by the officials duly authorized to bind the named firms.

H. Effective Date shall be the date of Tollway P4G – Construction Oversight Committee approval:

fill in date

Subject to the express approval of the ILLINOIS TOLLWAY, this Agreement is officially signed and executed by officials duly authorized to bind the named corporations below.

MENTOR

PROTÉGÉ

SIGNATURE _____

PRINTED NAME _____

DATE _____

