

# Town of Jay, New York

**Hamlet of Ausable Forks, NY**

**Request for Engineering Services Proposal:**

## **Wastewater Treatment Plant Disinfection Investigation & Report**

**PROJECT NUMBER: P-1002-2019**

**DATE ISSUED: May 10th, 2019**

**UPDATED: TBA**

### **Program Requirements:**

- NYS Environmental Facilities Corporation (EFC) Engineering Planning Grant (EPG)
- <https://www.efc.ny.gov/bid-packets>

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# REQUEST FOR PROPOSALS – ENGINEERING SERVICES

NOTICE IS HEREBY GIVEN, that the Undersigned, on behalf of the Town of Westport, will accept proposals **until 2:00 P.M. on June 7th, 2019** for **Municipal Civil Engineering Services** for the **Town of Jay WWTP Disinfection Investigation & Report** project.

PLEASE TAKE FURTHER NOTICE that the Town affirmatively states that in regard to any contract entered into pursuant to this notice, without regard to race, color, sex, religion, age, national origin, disability, sexual preference or veteran status, disadvantaged and minority or women-owned business enterprises will be afforded equal opportunity to submit bids in response hereto.

**Disadvantaged and Minority/Women-Owned Business Enterprises (M/WBE) businesses, Service-Disabled Veteran Owned Businesses (SDVOB) and Section 3 businesses are strongly encouraged to participate in this project.** The Town is an equal opportunity employer.

*For more information on the requirements associated with NYS EFC funds, please see their website for a complete list of documents & requirements relevant to this project and necessary for all consultants & contractors under this project:*

- <https://www.efc.ny.gov/bid-packets>

In addition to the proposal, Respondents shall submit executed non-collusion certificates signed by the proposer or one of its officers as required by the General Municipal Law Sec. 103d. The Respondents shall also submit an executed certificate of compliance with the Iran Divestment Act signed by the proposer or one of its officers as required by the General Municipal Law Sec. 103g. The Town reserves the right to except any and all proposal(s), reject any and all proposals not considered to be in the best interest of the Town, and to waive any technical or formal defect in the proposals which is considered by the Town to be merely irregular, immaterial, or unsubstantial.

Please contact the Essex County Planning Office (518) 873-3426 or [CommunityResources@co.essex.ny.us](mailto:CommunityResources@co.essex.ny.us) for additional information concerning the Proposals. Specifications may be obtained at the **NYS Contract Reporter account:**

**“Essex County Department of Community Development & Planning”**

**RFP Title: “Town of Jay WWTP Disinfection Investigation & Report RFP”**

All proposals submitted in response to this notice shall be marked **"JAY WWTP DISINFECTION INVESTIGATION & REPORT PROPOSAL"** clearly on email traffic and/or the outside of the envelope containing your electronic/digital response files.

**Published: May 10th, 2019**

*Essex County Office of Community Resources  
Elizabethtown, New York 12932  
CommunityResources@co.essex.ny.us  
(518) 873-3426*

# INTRODUCTION

## A. Overview

This Request for Proposals (“RFP”) is being issued by the TOWN OF JAY (“the Town”) for ENGINEERING SERVICES for a municipal project. The project will be funded by New York State Environmental Facilities Corporation (NYS EFC) Engineering Planning Grant (EPG), and all aspects must be compliant to their requirements, which are included herein as **Appendix A**.

Companies with demonstrated experience in *Municipal Civil Engineering Projects* and public funding agency administration interested in making their services available to the Town are invited to respond to this RFP. “Respondents” means the companies or individuals that submit proposals in response to this RFP. It is understood that the selected Respondent acting as an individual, partnership, corporation or other legal entity, is licensed to provide such services in New York State. The Respondent shall be financially solvent and each of its members if a joint venture, its employees, agents or sub-consultants of any tier shall be competent to perform the services required under this RFP document.

The Town is seeking to encourage participation by respondents who are DBE/MBE/WBE, Section 3 and/or Service-Disabled Veterans’ business enterprises. For the purposes of the project, the Town is requiring a *documented* DBE/MBE/WBE & Section 3 participation compliance & good faith effort per the Program requirements listed in **Appendix A** by providing evidence of direct solicitation to these required DBEs after contract award, but before given Notice to Proceed.

Nothing in this RFP shall be construed to create any legal obligation on the part of the Town or any respondents. The Town reserves the right, in its sole discretion, to amend, suspend, terminate, or reissue this RFP in whole or in part, at any stage. In no event shall the Town be liable to respondents for any cost or damages incurred in connection with the RFP process, including but not limited to, any and all costs of preparing a response to this RFP or any other costs incurred in reliance on this RFP. No respondent shall be entitled to repayment from the Town for any costs, expenses or fees related to this RFP. All supporting documentation submitted in response to this RFP will become the property of the Town. Respondents may also withdraw their interest in the RFP, in writing, at any point in time as more information becomes known.

## B. Time of Response

Respondents will have approximately four (4) weeks to provide a response to this RFP. The Town and resources from Essex County will review the proposals and respond within two (2) weeks of RFP closure, after Town Board Meetings are held

1. RFP Posted: **May 10th, 2019**
2. Statements Due: **June 7th, by 2:00 pm.**
3. Town Board Proposal Review: **June 7th – 13th, 2019**
4. Contract Awarded estimated: **June 13<sup>th</sup>, 2019 (Regular Board Meeting)**

## C. Contract Negotiations

After review and interviews are complete, the Town will approve the successful Proposal via Board Resolution and then provide a Notice of Award to the Respondent

#### **D. Contract Execution**

Once the contract Terms and Conditions have been approved, the final contract cannot be executed until the NYS EFC program requirements are completed and provided as part of the contract documents, such as the EEO, M/WBE Plans, other required forms and plans, etc. Once these have been provided the Town Board will execute the final contracts with the Respondent

#### **E. Term of Contract**

Any contract awarded pursuant to this RFP solicitation shall be for a contract period of approximately **(11) months** and will expire upon completion of the projects' administrative close out. **Substantial completion of the investigation & report must be completed no later than 5/01/20, and administrative closeout must be complete no later than 6/01/20.**

#### **F. Funding Agency Requirements**

Award recipients must follow the guidance provided in **Appendix A**. All Respondents must demonstrate capability to adhere to the following Funding Agencies' requirements:

- ~~○ Davis Bacon Related Acts (DBRA) Compliance~~
- Disadvantaged Business Enterprises (DBE) & Minority Women Business Enterprise (MWBE) Compliance
- Equal Employment Opportunity (EEO) Compliance
- Anti-Lobbying Policy
- *Others as required by Appendix A.*

Respondents are strongly encouraged to read these regulations prior to submitting their response to this RFP. Dates and schedules provided by the above funding agencies will be incorporated into project scope of work and schedule requirements.

# PROFESSIONAL SERVICE REQUIREMENTS

## A. Scope of Work

The Town of Jay and the Town of Black Brook jointly own and operate a sewer collection and wastewater treatment system for the Au Sable Forks hamlet area, consisting of the Jay Sewer District and Black Brook Sewer District. The hamlet of Au Sable Forks is located along the AuSable River, (16) miles West of Lake Champlain, and is named for the convergence of the East and West Branch of the Au Sable River. The hamlet, divided by the river, resides in Clinton County and Essex County. The system consists of a Small Diameter Gravity Sewer (SDGS) and an aerated lagoon wastewater treatment plant (WWTP), which were put into service in 1990. The collection and treatment plant were constructed with assistance from US Rural Development, financed with Rural Development funds and a 38-year 5.875% interest loan. The system has generally been considered in compliance with its New York State Department of Conservation, State Pollution Discharge Elimination System (NYS DEC SPDES) Permit #NY 020 1910.

On February 2<sup>nd</sup>, 2018 the Town of Jay received a letter from DEC notifying the Town of the requirement to include seasonal Disinfection to the wastewater treatment plant beginning May 1<sup>st</sup>, 2023.

This Request for Qualifications will determine the most qualified Engineering Firm to complete the project scope and ensure that all deliverables follow all State and Federal rules and regulations governing the funding program.

Recipients will provide a Cost Proposal according to the Tasks listed below and also in in the “Deliverables Table” in **Appendix K**. For a detailed description of the services and deliverables in each Phase, see **Appendix L “Draft Form of Contract” & Exhibit A “Requested Services”**.

The Scope of Work must include the following tasks, at a minimum:

- **General Requirements – (Tasks 1 -3)** The consultant shall participate in monthly project update meetings, public meetings and provide distribution of meeting minutes to the Town and Essex County. The consultant shall maintain and produce a project schedule in Gantt Format. The consultant shall work with the Essex County Office of Community Resources for permitting & funding compliance for this project. Essex County will develop all funding applications, funding compliance oversight, act as Minority Business Officer (MBO) and provide finance consultation with the Town with technical input from the consultant. The consultant will be responsible for any technical information required for project development and permitting purposes. The consultant shall additionally coordinate with regulatory & funding program representatives as requested for review and approval of the engineering report, report reviews, and any compliance measures.
- **Field Investigations – (Task 4, 5 & 8)** The consultant shall conduct such field work they deem necessary to obtain the required information to properly design the wastewater system upgrades. This work shall include, but not be limited to site surveying to support hydraulic grades and schematic design site plans for forming a basis of design, onsite data collection on items identified in past NYS DEC annual inspections, and evaluation of all existing treatment works, especially identifying the life cycle of equipment condition and calibration that are related to disinfection. All survey/mapping data collected during this Task shall be a separate

deliverable to the Town in a hard copy format (3 hard copies of full-size plans) and digital format (.shp file, .pdf, etc.).

- **Engineering Report & Schematic Design – (Tasks 6 & 7)** The consultant shall prepare provide recommendations for system design, prepare preliminary plans for the system upgrade, and develop a Basis of Design Report, in accordance with NYS DEC guidelines. The consultant shall present alternatives to the Town or its designated agent, make recommendation and receive input on the design selection to be offered as the selected alternative. Once the Basis of Design Report is approved by the Town and County, it will be submitted to the NYS DEC for review and approval.

The consultant shall be responsible for coordinating all aspects of this project and addressing any questions or concerns of the NYS DOH, NYS DEC and any other regulatory agencies as required. Additionally, the consultant shall work to meet all DBE, MBE, WBE, SDVOB, and Section 3 participation requirements and goals, as required for funding compliance. ~~Davis-Bacon prevailing wage rate documentation is required for this project, as determined by DOL, and must be included with the bidding documents.~~

## **B. Quality of Work**

All work shall follow recognized professional practices and standards and meet the specifications required by local, state and federal approval of the project's plans and specification prior to advertising the project for construction bidding.

## **C. Records**

The design professional is to maintain all books, documents, papers, account records and other evidence pertaining to this work and to make such materials available at their respective offices at all reasonable times during the agreement and for a period up to seven **(7) years** from the date of final payment under the agreement. Throughout the project, the respondent will be required to coordinate with the Town and the Essex County Planning Office via regular project meetings and other electronic project management software.

**All reports, documents, information, presentations, electronic drawings, and other materials prepared by the award recipient in connection with this Agreement are deliverables to be provided to the Town as a result of the project.** Copies of all reports, designs, project documents, supporting information and any materials or equipment furnished to the award recipient by the Owner shall remain the property of the Owner and award recipient's limited possession of the purpose of carrying out the Work, shall be returned to the Owner at the conclusion of the Agreement. **Nothing written in this paragraph, however, will be interpreted to forbid the award recipient from retaining a single copy of the information for its files.**

## **D. Additional Requirements**

Professional services shall comply with all codes, standards, regulations, and workers' safety rules that are administered by federal agencies (EPA, OSHA, and DOT), state agencies (State OSHA, DNR, and DCH), and any other local regulations and standards (i.e. local ordinance and building codes) that may apply. **Further requirements are identified in the accompanying Appendix of this RFP.**



# SUBMITTAL REQUIREMENTS

## A. Preliminary Requirements

1. \*Certificate of Authority (Corporation) or Certificate of Existence (ex: Professional Limited Liability Company or “PLLC”) issued by the NY Secretary of State
2. \*Evidence of Insurance: Commercial General Liability with limits not less than \$2,000,000; Workers Compensation and Employers Liability with limits not less than \$500,000; and, Automobile Liability with limits not less than \$1,000,000 per occurrence.
3. \*References: At least three (3) references of *related projects*, including date of project, contact person and phone number, and a brief description of the project.
4. \*Conflict of Interest Statement & Supporting Documentation: Respondent shall disclose any professional or personal financial interests that may be a conflict of interest in representing the Town. In addition, all Respondents shall further disclose arrangement to derive additional compensation from various investment and reinvestment products, including financial contracts.
5. \*Non-Collusion Biding Affidavit: Provide completed, signed & notarized form back with Response
6. \*Iran Divestment Act Compliance Form: Provide completed & signed form back with Response

*\*RFP RESPONSE WILL BE CONSIDERED INCOMPLETE AND NOT SCORED IF THESE ITEMS ARE NOT PROVIDED IN COMPLETION*

## B. Letter of Interest

Submit a Cover Letter of Interest signed by a duly authorized officer or representative of the Respondent, not to exceed two pages in length. The Letter of Interest must also include the following information:

- The principal place of business and the contact person, title, telephone/fax numbers and email address.
- A brief summary of the qualifications of the Respondent and team.
- Description of organization (i.e. Professional Corporation, or Professional Limited Liability Company).
- The names and business addresses of all Principals of the Respondent. For purposes of this RFP “Principals” shall mean persons possessing an ownership interest in the Respondent.
- If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.

## C. Main Proposal

The purpose of the proposal is to demonstrate the qualifications, competence and capacity of the Respondents in conformity with the requirements of this RFP. As such, the substance of proposals will carry more weight than their form or manner of presentation. The proposal should demonstrate the qualifications of the firm and of the particular staff to be assigned to this project. It should also specify an approach that will meet the request for proposals requirements.

The proposal should address all the points outlined in the request for proposals. The proposal should be prepared simply and economically, providing a straightforward, concise description of the proposer's capabilities to satisfy the requirements of the request for proposals. While additional data may be presented, the following items must be included; this represents the criteria against which the proposal will be evaluated.

1. **Qualifications Proposal:** Provide a synopsis of the years of experience and detailed qualifications in performing the range of related municipal project types in compliance with applicable standards, including team's resumes. Respondents should provide narrative examples of a minimum of three (3) projects in detail that are similar in nature to projects described in the RFP (see "References"). References for similar projects and portfolio vignettes will be reviewed to evaluate the level of experience.
2. **Technical Proposal:**
  - a. **Project Management Plan:** Discuss approach to the project in terms of understanding of the established Scope and Deliverables execution, with regard to any constraints identified in this RFP, to include funding requirements. Provide a plan for engaging the Town's project team and regulatory agencies required. Provide the number of full-time and part-time employees, partnerships or subconsultants proposed and their value to the project.
  - b. **Schedule:** Capacity to complete the scope of work within the defined period of performance: **June 2019 – May 2020**. The successful Respondent will have a detailed project schedule & work plan to illustrate the ability complete the work with respect to constraints, either stated or assumed. The Schedule Proposal must include a Gantt chart to illustrate your proposed schedule.
  - c. **Funding Agency Experience:** Respondents should state whether they are an DBE/MBE/WBE or Section 3 business enterprise; if so, provide a copy of a current DBE/MBE/WBE certification letter. Respondents may also cite previous project experience in working with DBE firms, cite any existing partnerships with DBEs or cite the planned DBE partnerships relevant to addressing requirements of this project & RFP. If Respondents are planning to cite proposed DBE partnerships for this project (e.g., no existing contract vehicle), please provide contact information for reference checks with the appropriate point of contact for validation.
3. **Cost Proposal:**
  - a. ~~Cost will not be the primary factor in the selection of firm. The proposed price will be graded based upon the following formula:~~
    - ~~Average Bid / Your Price = X (whereby X cannot exceed 100%)~~
    - ~~X \* 330~~

- ~~0 points – Points awarded based on cost~~

- b. *For the purposes of this Project, the Consultant’s Cost Proposals shall be not more than \$24,000.00 in order to meet the project budget. Consultants shall provide hourly labor rates per staff proposed to be utilized on this project.*
- c. This should include the lump sum/unit rates for different Tasks, per the table provided in **Appendix K, “Deliverables Table”**. Respondents should include a description of the costs and detail proposals for *cost savings* in their Proposal. Labor cost estimates will include payments of prevailing wage rates as determined by the NYS Department of Labor and Industries as applicable (such as Survey work for example).

## SELECTION PROCESS

The Selection Committee comprised of the Town and resources from Essex County staff will review qualifications in accordance with the evaluation criteria set forth herein. Proposals that are submitted timely and comply with the mandatory requirements of the RFP will be evaluated in accordance with the terms of the RFP. Any professional services contracts resulting from this RFP will not necessarily be awarded to the Respondent with the lowest price. Instead, professional services shall be awarded to vendor whose proposal received the most points in accordance with criteria set forth in RFP.

## EVALUATION CRITERIA AND SCORING

In evaluating responses to this Request for Proposal, the Town will take into consideration the experience, capacity, and costs that are being proposed by the Respondent. The following Evaluation Criteria will be considered in reviewing submittals:

The point system is to evaluate the experience and capacity of the Respondent. Maximum is 100 Points:

- Respondents will be awarded up to **10 Points for Completeness of Response**.
- Respondents will be awarded up to **40 Points for Qualifications Proposal**.
  - *Related Project Experience:*      **20 Points**
  - *Public Funding Experience:*      **10 Points**
- Respondents will be awarded up to **50 Points for the Technical Proposal**:
  - *Project Management Plan:*      **20 Points**
  - *Project Approach:*              **20 Points**
  - *Schedule:*                              **10 Points**
- Respondents will be awarded up to ~~20 Points for Cost Proposal~~.

## QUESTIONS

Questions regarding this RFP should be submitted in writing via email to Essex County Community Resources at ([CommunityResources@co.essex.ny.us](mailto:CommunityResources@co.essex.ny.us)) between the hours of 0900 – 1500 *only*. Any RFI responses will in turn be made available to all Respondents as they are received by means of direct emails.

## SUBMITTAL DUE DATE

**Responses to this RFP are due by 2:00pm on Monday June 3rd.** RFP responses must be submitted via electronic PDF sent to the following web address:

<https://app.smartsheet.com/b/form/388b0b09fec24ef4bc1f07563e9120e1>

The Town will select a Respondent on **June 13<sup>th</sup>, 2019** at a regular Board Meeting.

If you run into technical difficulties providing your response by the web link above, it is also acceptable to submit your RFP responses in writing via email, OR mail-in digital files (.PDF format) on flash-drive to the RFP point of contact:

**Essex County Office of Community Resources**  
7533 Court Street – PO Box 217  
Elizabethtown, NY 12932  
[CommunityResources@co.essex.ny.us](mailto:CommunityResources@co.essex.ny.us)  
(518) 873-3426

Each Respondent shall receive a confirmation of their submission via email, regardless of manner of RFP response. Respondents are advised to adhere to the Submittal Requirements. Failure to comply with the instructions of this RFP will be cause for rejection of submittals. **NO HARD COPIES WILL BE ACCEPTED.**

## **RFP SUBMITTAL REQUIREMENTS CHECKLIST**

### **FORMS FROM RFQ PACKAGE TO RETURN:**

- RFP Submittal Requirements Checklist (*Provide Checklist with RFP Response*)
- \*Appendix C: References (Minimum 3 related projects)
- \*Appendix D: Conflict of Interest Statement & Supporting Documentation
- \*Appendix E: Certification of Authority
  - Aka, Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
- \*Appendix F: Vendor Responsibility Questionnaire (if over \$100K in proposed contract value)
- \*Appendix G: W-9 Form
- \*Appendix H: Non-Collusive Bidding Certification
- \*Appendix I: Iran Divestment Act Compliance Form
- \*Appendix K: Deliverables Table with proposed costs

### **FOR THE RESPONDENT TO PROVIDE:**

- Letter of Interest
- Qualifications Proposal:
  - Description of Company
  - Capacity of Company
  - Resumes of specific staff identified to work on project
  - State License and or Certification
- Technical Proposal:
  - Project Management Plan (*Describe your approach in detail*)
  - Schedule Proposal (*Provide in a Gantt Chart format*)
  - Experience with DBE/MBE/WBE, Local Hiring, HUD Section 3, if applicable
- Pricing Proposal Description (*Also include figures in “Deliverables Table”*)
- \*Evidence of Insurance

\*These documents must be submitted and complete before the Town will review the remainder of the proposal.

## **APPENDIX A: FUNDING PROGRAM REQUIREMENTS**



**Environmental  
Facilities Corporation**

**ANDREW M. CUOMO**  
Governor

**SABRINA M. TY**  
President and CEO

# **Program Requirements and Bid Packet for Non-Construction Contracts**

(For Treatment Works and Drinking Water projects funded with NYS Clean Water State Revolving Fund or Drinking Water State Revolving Fund and Non-Treatment Works projects funded with NYS Clean Water State Revolving Fund)

Effective October 1, 2017

**New York State Environmental Facilities Corporation**  
625 Broadway, Albany, NY 12207-2997  
P: (518) 402-6924 F: (518) 402-7456  
[www.efc.ny.gov](http://www.efc.ny.gov)

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ATTACHMENTS (REQUIRED FORMS)

- Attachment 1 - EEO Policy Statement
- Attachment 2 - EEO Staffing Plan
- Attachment 3 - EEO Workforce Employment Utilization Report
- Attachment 4 - Monthly MWBE Contractor Compliance Report
- Attachment 5 - MWBE Utilization Plan
- Attachment 6 - MWBE Waiver Request
- Attachment 7 - EPA Form 6100-2 - DBE Subcontractor Participation Form
- Attachment 8 - EPA Form 6100-3 - DBE Subcontractor Performance Form
- Attachment 9 - EPA Form 6100-4 - DBE Subcontractor Utilization Form
- Attachment 10 - Lobbying Certification

# PART 1:

## HOW TO USE THIS DOCUMENT

The New York State Environmental Facilities Corporation (“EFC”) implements the New York State Revolving Fund (“SRF”) for both Clean Water and Drinking Water projects.

This Program Requirements and Bid Packet for Non-Construction Contracts document contains (1) a brief description of New York State and federal program requirements for Contracts and Subcontracts funded in whole or part by the New York State Clean Water and Drinking Water SRFs, (2) required language for such Contracts and Subcontracts to satisfy the SRF program requirements, including required forms, and (3) guidance materials to assist entities in complying with these requirements.

### PROGRAM REQUIREMENTS

The following requirements apply to Treatment Works and Drinking Water projects funded with the NYS Clean Water State Revolving Fund or Drinking Water State Revolving Fund as well as Non-Treatment Works projects funded with the NYS Clean Water State Revolving Fund:

- Participation of Minority- and Women-Owned Business Enterprises (“MWBE”) and Equal Employment Opportunities (“EEO”) pursuant to New York State Executive Law, Article 15-A and New York Code of Rules and Regulations, Title 5 (5 NYCRR) Parts 140-145 (Regulations of the Commissioner of Economic Development);
- Participation by Disadvantaged Business Enterprises (“DBE”) in United States Environmental Protection Agency (“EPA”) Programs pursuant to 40 Code of Federal Regulations (CFR) Part 33;
- Equal Employment Opportunities pursuant to Title VI of the Civil Rights Act of 1964 and 40 CFR Part 7;
- Non-discrimination requirements pursuant to Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972;
- Encouragement of participation of Service-Disabled Veteran-Owned Business Enterprises (“SDVOB”) in accordance with New York State Executive Law, Article 17-B and 9 NYCRR Part 252;
- Requirements regarding suspension and debarment pursuant to 2 CFR Part 180, 2 CFR Part 1532, 29 CFR § 5.12, State Labor Law § 220-b, and State Executive Law § 316; and,
- Restrictions on Lobbying pursuant to 40 CFR Part 34.

EFC or its authorized representatives, and other governmental entities as applicable, reserve the right to conduct occasional site inspections to monitor compliance with SRF program requirements.

**This document is not intended to be inclusive of all applicable legal requirements and there may be other legal requirements that need to be included in a particular Contract or Subcontract that are not set forth here. Accordingly, EFC recommends that Recipients, Contractors, Subcontractors, and any other involved entities consult their legal counsel for advice on compliance with all applicable laws, including but not limited to local laws. This document is not intended to be legal advice.**

Refer to the EFC website at [www.efc.ny.gov](http://www.efc.ny.gov) for the latest version of the bid packet to ensure that the most recent forms and contract language are being used.

## REQUIRED CONTRACT LANGUAGE

Part 2 of this document is the Required Contract Language. All of the language in Part 2 must be inserted in to all Contracts and Subcontracts funded in whole or in part with SRF funds, in order for SRF Recipients, Contractors, and Subcontractors to comply with the above-listed SRF program requirements.

## GUIDANCE MATERIALS

Part 3 of this document sets forth Guidance Materials intended to assist SRF Recipients, Contractors, and Subcontractors in complying with the foregoing SRF program requirements, as applicable.

**The Guidance Materials are for informational purposes only and are not intended to be used as contractual language. Please do not incorporate the Guidance Materials into any Contracts or Subcontracts.**

## COMMONLY USED TERMS

The following commonly used terms are defined herein as follows:

**“Contract”** means an agreement between a Recipient and a Contractor.

**“Contractor”** means all bidders, prime contractors, Service Providers, and consultants as hereinafter defined, unless specifically referred to otherwise.

**“Service Provider”** means any individual or business enterprise that provides one or more of the following: legal, engineering, financial advisory, technical, or other professional services, supplies, commodities, equipment, materials, or travel.

**“Subcontract”** means an agreement between a Contractor and a Subcontractor.

**“Subcontractor”** means any individual or business enterprise that has an agreement, purchase order, or any other contractual arrangement with a Contractor.

**“Recipient”** means the party, other than EFC, to a grant agreement or a project finance agreement with EFC through which funds for the payment of amounts due thereunder are being paid in whole or in part.

**“State”** means the State of New York.

**“Treatment Works”** is defined in Clean Water Act (CWA) Section 212.

**“Nonpoint Source Projects”** and **“Green Infrastructure Projects”** are defined in CWA Section 319.

**“Estuary Management Program Project”** is defined in CWA Section 320.

# PART 2:

## REQUIRED CONTRACT LANGUAGE

### SECTION 1 REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR FEDERAL DISADVANTAGED BUSINESS ENTERPRISES AND NEW YORK STATE CERTIFIED MINORITY- AND WOMEN- OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

The Equal Employment Opportunities requirements of this section apply to Contracts and Subcontracts greater than \$10,000, with the exception of the EEO Workforce Employment Utilization Report requirement which applies to construction Contracts and Subcontracts greater than \$25,000.

The Minority- and Women- Owned Business Enterprises ("MWBE") and Disadvantaged Business Enterprises ("DBE") requirements of this section apply to Contractors and Subcontractors working pursuant to: (1) Contracts for labor, services (including, but not limited to, legal, financial, and other professional services), supplies, equipment, materials, or any combination of the foregoing, greater than \$25,000; (2) Contracts that are initially under this threshold but subsequent change orders or contract amendments increase the Contract value to above \$25,000; and, (3) change orders greater than \$25,000.

Disregard this section if it does not apply to this Contract or Subcontract.

#### I. General Provisions

A. Contractors and Subcontractors are required to comply with the following provisions:

1. New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services (including, but not limited to, legal, financial, and other professional services), supplies, equipment, materials, or any combination of the foregoing, or (2) in excess of \$100,000 for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon.
2. 40 CFR Part 33 ("Federal DBE Regulations") for contracts under EPA financial assistance agreements, as those terms are defined therein.
3. Title VI of the Civil Rights Act of 1964 and 40 CFR Part 7 ("Title VI") for any program or activity receiving federal financial assistance, as those terms are defined therein.
4. Section 504 of the Rehabilitation Act of 1973 ("Section 504") for any program or activity receiving federal financial assistance, as those terms are defined therein.
5. The Age Discrimination Act of 1975 ("Age Discrimination Act") for any program or activity receiving federal financial assistance, as those terms are defined therein.
6. Section 13 of the Federal Water Pollution Control Act ("Clean Water Act") Amendments of 1972 ("Section 13") for any program or activity receiving federal financial assistance under the Clean Water Act, as those terms are defined therein.

B. The Contractor and Subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The Contractor and Subcontractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Contractor and Subcontractor to carry out these

requirements is a material breach of this Contract which may result in the termination of this Contract or other legally available remedies.

- C. Contractors and Subcontractors shall have instituted grievance procedures to assure the prompt and fair resolution of complaints when a violation of Title VI of the Civil Rights Act of 1964 or Title 40 CFR Part 7 is alleged.
- D. Failure to comply with all of the requirements herein may result in a finding by the Recipient that the Contractor is non-responsive, non-responsible, and/or has breached the Contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to subsection III(F) of this section, or enforcement proceedings as allowed by the Contract.
- E. If any terms or provisions herein conflict with Executive Law Article 15-A, the MWBE Regulations, Federal DBE Regulations, or Title VI, such law and regulations shall supersede these requirements.
- F. Upon request from the Recipient's Minority Business Officer ("MBO") and/or EFC, Contractor will provide complete responses to inquiries and all MWBE and EEO records available within a reasonable time. For purposes of this section, MBO means the duly authorized representative of the SRF Recipient for MWBE and EEO purposes.

## **II. Equal Employment Opportunities (EEO)**

- A. Each Contractor and Subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
- B. Contractor represents that it has submitted an EEO policy statement to Recipient prior to the execution of this Contract.
- C. Contractor represents that it's EEO policy statement includes the following language:
  - 1. The contractor will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on Contracts relating to SRF projects.
  - 2. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the Contract relating to this SRF project, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
  - 3. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status, and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
- D. The Contractor will include the provisions of Subdivisions II(A), II(C), and II(E) in every Subcontract in such a manner that the requirements of these subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.
- E. The Contractor shall comply with the provisions of the Human Rights Law (Executive Law Article 15), Title VI, Section 504, Age Discrimination Act, Section 13, and all other State and Federal

statutory and constitutional non-discrimination provisions. The Contractor and Subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

**F. Required EEO Forms**

**1. EEO Staffing Plan**

To ensure compliance with this section, the Contractor represents that it has submitted prior to execution of this Contract an EEO Staffing Plan to the Recipient's MBO to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and federal occupational categories.

**2. EEO Workforce Employment Utilization Report ("Workforce Report")**

- a. The Contractor shall submit a Workforce Report, and shall require each of its Subcontractors to submit a Workforce Report to the Recipient, in such format as shall be required by EFC on a quarterly basis during the term of the Contract.
- b. Separate forms shall be completed by Contractor and any Subcontractor.
- c. In limited instances, the Contractor may not be able to separate out the workforce utilized in the performance of the Contract from the Contractor's and/or Subcontractor's total workforce. When a separation can be made, the Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the Contract cannot be separated out from the Contractor's and/or Subcontractor's total workforce, the Contractor shall submit the Workforce Report and indicate that the information provided is the Contractor's total workforce during the subject time frame, not limited to work specifically under the Contract.

**III. Business Participation Opportunities for MWBEs**

**A. Contract Goals**

1. For purposes of this Contract, EFC establishes the following goals for New York State certified MWBE participation ("MWBE Combined Goals") based on the current availability of qualified MBEs and WBEs.

<b>Program</b>	<b>MWBE Combined Goal*</b>
CWSRF, DWSRF, & Green Innovation Grant Program	20%
NYS Water Infrastructure Improvement Act Grants (also receiving EFC loan)	Clean Water project 23% Drinking Water project 26%
NYS Intermunicipal Grants (also receiving EFC loan)	Clean Water project 24% Drinking Water project 24%
NYS financial assistance only	30%
Engineering Planning Grant	30%

\*May be any combination of MBE and/or WBE participation

2. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section III-A hereof, the Contractor should reference the directory of New York State Certified MWBEs found at the following internet address: <https://ny.newnycontracts.com>.

3. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards achievement of applicable MWBE participation goals. For construction-related services Contracts or Subcontracts, the portion of the Contract or Subcontract with an MWBE serving as a supplier, and so designated in ESD's Directory, that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60% of the total value of the Contract or Subcontract. The portion of a Contract or Subcontract with an MWBE serving as a broker, as denoted by NAICS code 425120, that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE. Where MWBE Contract Goals have been established herein, pursuant to 5 NYCRR § 142.8, the Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as Subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR § 142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of Contract and the Contractor shall be liable to the Recipient for liquidated or other appropriate damages, as set forth herein.

#### B. MWBE Utilization Plan

1. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan to the Recipient prior to the execution of this Contract.
2. The Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this section.
3. The Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Recipient shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is not responsive.
4. Contractor must report any changes to the Utilization Plan after Contract award and during the term of the Contract to the Recipient's MBO. Contractor shall indicate the changes to the MBO in the next Monthly MWBE Contractor Compliance Report after the changes occurred. At EFC's discretion, an updated MWBE Utilization Plan form and good faith effort documentation may be required to be submitted. When a Utilization Plan is revised due to execution of a change order, the change order should be submitted to the MBO with the revised Utilization Plan.
5. The Contractor shall submit copies of all fully executed subcontracts, agreements, and purchase orders that are referred to in the MWBE Utilization Plan to the MBO within 30 days of their execution.

#### C. Requests for Waiver

1. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver to the Recipient documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the Recipient shall forward the request to EFC for evaluation, and EFC will issue a written notice of acceptance or denial within twenty (20) days of receipt.
2. If the Recipient, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals and no waiver has been issued in regards to such non-compliance, the Recipient may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

D. Monthly MWBE Contractor Compliance Report (“Monthly MWBE Report”)

The Contractor agrees to submit a report to the Recipient by the third business day following the end of each month over the term of this Contract documenting the payments made and the progress towards achievement of the MWBE goals of the Contract. The Monthly MWBE Report must be supplemented with proof of payment by the Contractor to its Subcontractors (e.g., copies of both sides of a cancelled check) and proof that Subcontractors have been paid within 30 days of receipt of payment from the Recipient. The final Monthly MWBE Report must reflect all Utilization Plan revisions and change orders.

E. Required Federal DBE Forms

1. EPA Form 6100-3 - DBE Subcontractor Performance Form  
Contractor represents that it has submitted the Form 6100-3 to all of its Subcontractors, all of its Subcontractors have completed the form, and that Contractor submitted such completed forms to Recipient with its bid submission.
2. EPA Form 6100-4 - DBE Subcontractor Utilization Form  
Contractor represents that it has completed the Form 6100-4 and submitted such completed form to Recipient with its bid submission.
3. EPA Form 6100-2 - DBE Subcontractor Participation Form  
Contractor represents that it has distributed a Form 6100-2 to its MWBE Subcontractors for completion prior to execution of this Contract.

F. Liquidated Damages - MWBE Participation

In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, if it has been determined by the Recipient or EFC that the Contractor has willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to Recipient liquidated damages or other appropriate damages, as specified herein and as determined by the Recipient or EFC.

Liquidated damages shall be calculated as an amount not to exceed the difference between:

1. All sums identified for payment to MWBEs had the Contractor achieved the approved MWBE participation goals; and,
2. All sums actually paid to MWBEs for work performed or materials supplied under this Contract.

The Recipient and EFC reserve the right to impose a lesser amount of liquidated damages than the amount calculated above based on the circumstances surrounding the Contractor’s non-compliance.

In the event a determination has been made by the Recipient or EFC which requires the payment of damages identified herein and such identified sums have not been withheld, Contractor shall pay such damages to the Recipient within sixty (60) days after they are assessed unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Empire State Development Corporation – Division of Minority and Women’s Business Development (“ESD”) pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the damages shall be payable if the Director of ESD renders a decision in favor of the Recipient.



## **SECTION 2 PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES**

New York State Executive Law Article 17-B and 9 NYCRR Part 252 provide for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOBs”), thereby further integrating such businesses into New York State’s economy. EFC recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of EFC contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as Subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <http://ogs.ny.gov/Core/SDVOBA.asp>

Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veteran’s Business Development at 518-474-2015 or [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov) to discuss methods of maximizing participation by SDVOBs on the Contract.

## **SECTION 3 REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT**

The requirements of this section apply to all Contracts and Subcontracts.

Contractor and any Subcontractors shall comply with, Subpart C of 2 CFR Part 180 as implemented and supplemented by 2 CFR Part 1532. The Contractor is not a debarred or suspended party under 2 CFR Part 180 or 2 CFR Part 1532, or 29 CFR § 5.12. Neither the Contractor nor any of its Subcontractors have contracted with, or will contract with, any debarred or suspended party under the foregoing regulations.

The Contractor and any Subcontractors have not been deemed ineligible to submit a bid on or be awarded a public contract or subcontract pursuant to Article 8 of the State Labor Law, specifically Labor Law § 220-b. In addition, neither the Contractor nor any Subcontractors have contracted with, or will contract with, any party that has been deemed ineligible to submit a bid on or be awarded a public contract or subcontract under Labor Law § 220-b.

In addition, the Contractor and any Subcontractors have not been deemed ineligible to submit a bid and have not contracted with and will not contract with any party that has been deemed ineligible to submit a bid under Executive Law § 316.

## **SECTION 4 RESTRICTIONS ON LOBBYING**

The requirements of this section apply to all Contracts and Subcontracts greater than \$100,000. Disregard this section if it does not apply to this Contract or Subcontract.

The Contractor and any Subcontractor executing a Contract or Subcontract in excess of \$100,000 agree to provide to the Recipient an executed Certification Regarding Lobbying pursuant to 40 CFR Part 34 (“Lobbying Certification”) in the form attached hereto as Attachment 10, consistent with the prescribed form provided in Appendix A to 40 CFR Part 34.

# PART 3:

## GUIDANCE MATERIALS

### APPLICABILITY OF PROGRAM REQUIREMENTS

This chart contains a listing of the SRF program requirements contained within this document, as well as the following details regarding each requirement: (1) its applicability, i.e., what types of contracts/subcontracts, particular monetary thresholds if applicable; (2) a section reference to the Required Contract Language that applies from Part 2; and (3) a section reference to the Guidance that applies from this Part.

Requirement	Applicability	Section of Required Contract Language from Part 2	Section of Appropriate Guidance from Part 3
Minority- and Women- Owned Business Enterprises (MWBE) and Disadvantaged Business Enterprises (DBE)	Contractors and Subcontractors working pursuant to: (1) Contracts for labor, services (including, but not limited to, legal, financial, and other professional services), supplies, equipment, materials, or any combination of the foregoing, greater than \$25,000; (2) Contracts that are initially under this threshold but subsequent change orders or Contract amendments increase the Contract value above \$25,000; and, (3) Change orders greater than \$25,000	1	1
Equal Employment Opportunities (EEO)	Contracts and Subcontracts greater than \$10,000, with the exception of the EEO Workforce Employment Utilization Report requirement which applies to construction Contracts and Subcontracts greater than \$25,000	1	1
Service-Disabled Veteran-Owned Businesses (SDVOB)	Not required, but strongly encouraged	2	2
Suspension and Debarment	All Contracts and Subcontracts	3	3
Restrictions on Lobbying	All Contracts and Subcontracts greater than \$100,000	4	4

# SECTION 1      **GUIDANCE FOR THE REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR FEDERAL DISADVANTAGED BUSINESS ENTERPRISES AND NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN**

## **I. Summary of EEO, MWBE, and DBE Forms**

### **A. Forms to be Submitted Prior to Contract Execution**

#### **1. EEO Policy Statement**

To be submitted by the Contractor to the Recipient's Minority Business Officer ("MBO") prior to Contract execution. The "MBO" refers to the duly authorized representative of the SRF Recipient for MWBE and EEO purposes. This form is attached hereto as Attachment 1. See Required Contract Language, Section 1(II).

#### **2. EEO Staffing Plan**

To be submitted by the Contractor to the MBO prior to Contract execution. This form is attached hereto as Attachment 2. See required Contract Language, Section 1(II).

#### **3. EPA Form 6100-3 – DBE Subcontractor Performance Form**

To be submitted by the Contractor to the MBO with its bid submission. This form is attached hereto as Attachment 8. See Required Contract Language, Section 1(III)(E).

#### **4. EPA Form 6100-4 – DBE Subcontractor Utilization Form**

To be submitted by the Contractor to the MBO with its bid submission. This form is attached hereto as Attachment 9. See Required Contract Language, Section 1(III)(E).

#### **5. EPA Form 6100-2 – DBE Subcontractor Participation Form**

To be submitted by the Subcontractors to the MBO prior to Contract execution. The Contractor must provide the form to the Subcontractors for completion. The Contractor should also submit documentation (e.g., email, letter, certified mail receipt) to the MBO that the 6100-2 form was made available to the MWBE Subcontractors. This form is attached hereto as Attachment 7. See Required Contract Language, Section 1(III)(E).

#### **6. MWBE Utilization Plan**

To be submitted by the Contractor to the MBO after the bid opening, but in no case more than ten (10) business days after the Contractor receives notice from the Recipient that the Contractor has submitted a low bid. This form is attached hereto as Attachment 5. See Required Contract Language, Section 1(III)(B).

### **B. Forms to be Submitted During the Term of the Contract**

#### **1. EEO Workforce Employment Utilization Report ("Workforce Report")**

To be submitted by the Contractor to the MBO on a quarterly basis during the term of the Contract. An exemplar form with instructions is attached hereto as Attachment 3. The actual Excel fillable form for Contractors and Subcontractors to complete will be e-mailed to MBOs by EFC at the start of the Contract term. See Required Contract Language, Section 1(II)(G).

#### **2. Request for Partial or Total Waiver**

If applicable, to be submitted by the Contractor to the MBO at any time during the term of the Contract, but not later than prior to the submission of a request for final payment on the

Contract. This form is attached hereto as Attachment 6. See Required Contract Language, Section 1(III)(C).

3. **Monthly MWBE Contractor Compliance Report (“Monthly MWBE Report”)**

To be submitted by the Contractor to the MBO by the third business day following the end of each month over the term of the Contract. This form is attached hereto as Attachment 4. See Required Contract Language, Section 1(III)(D).

**II. Business Participation Opportunities for MWBEs**

A. Contract Goals

The goals provided herein (Required Contract Language, Section 1(III)(A)) are effective as of October 1, 2017. MWBE participation goals for a contract will be based on the goals in place at the time of the execution date of each respective contract, unless otherwise specified. In certain instances, the goals may vary, such as with projects co-funded by EFC and other state/federal agencies. With some co-funded projects, EFC may defer to the MBE and WBE participation goals and program established by those agencies.

Please contact EFC if you have any questions about the applicable MWBE participation goals for your contract.

B. Good Faith Efforts

The Contractor must make good faith efforts to develop an adequate MWBE Utilization Plan and must continue such good faith efforts in order to meet applicable MWBE participation goals. The Contractor shall maintain documentation of good faith efforts to solicit participation of MWBE firms for SRF-funded projects. If a Contractor is unable to meet contract MWBE participation goals, and submits a Request for Waiver, documentation of such good faith efforts must accompany the request. See Required Contract Language, Section 1(III)(C).

Contractor should also continue good faith efforts to seek opportunities for MWBE participation during the life of the contract even if proposed goals have been achieved.

Examples of documentation of good faith efforts are set forth below:

- Information on the scope of work related to the contract, such as a copy of the schedule of values from the bid submission, and specific steps taken to reasonably structure the scope of work to break out tasks or equipment needs for the purpose of providing opportunities for subcontracting with, or obtaining supplies or services from, MBEs or WBEs.
- Printed screenshots of the directory of Certified Minority- and Women- Owned Business Enterprises (“MWBE directory”) on ESD’s website on a Statewide basis, if appropriate, for both MBEs and WBEs that provide the services or equipment necessary for the contract. Contact the MBO for assistance in performing a proper search including identifying a sufficient number of solicitations to show that good faith effort was made.
- Copies of timely solicitations and documentation (e.g., faxes and emails) that the Contractor offered relevant plans, specifications, or other related materials to MBE and WBE firms on ESD’s MWBE directory to participate in the work, with the responses.
- A log prepared by the Contractor in a sortable spreadsheet documenting the Contractor’s solicitation of MBEs and WBEs for participation as Subcontractors or suppliers pursuant to a contract. The log should consist of the list of MBE and WBE firms solicited, their contact information, the type of work they were solicited to perform (or equipment to provide), how the solicitation was made (fax, phone, email) and the contact information, the contacts name and the outcome. If a bid was

received, the bid price should also be included in the log. See a sample log format below:

Date	M/WBE Type	Company	Scope of work	Contact Name	Phone/ Email	Solicitation Format	MWBE Response	Negotiation Required?	Selected? If not, Explain

If no response was received to an initial solicitation, at least one follow-up solicitation should be made in a different format than the first, e.g. fax followed by phone call. Any bids received from non-MWBE firms for the same areas MWBEs were solicited should also be tracked on the log.

- Copies of the EPA 6100-3 and 6100-4 forms that are required with the bid submission. A properly completed EPA 6100-3 form is good indication of a contact to an MWBE and their response to the contact. If solicitations do not result in obtaining sufficient participation of MWBE firms due to non-responsiveness, please contact the MBO or EFC MWBE representative for support.
- Copies of any advertisements of sufficient duration to effectively seek participation of certified MBE and WBEs timely published in appropriate general circulation, trade and MWBE oriented publications, together with listing and dates of publication of such advertisements. EFC recommends the use of the NYS Contract Reporter that is free to all Contractors - <https://www.nyscr.ny.gov/>. A log should be kept of the responses to the ads, similar to the log for MWBE firm solicitation and should include the non-MWBE firms that responded and the bid prices. Any negotiations should be documented in the log.
- Documents demonstrating that insufficient MBEs or WBEs are reasonably available to perform the work.
- A written demonstration that the Contractor offered to make up any inability to meet the project MWBE participation goals in other contracts and/or agreements performed by the Contractor on another SRF funded project.
- The date of pre-bid, pre-award, or other meetings scheduled by the Recipient, if any, and the contact information of any MBEs and WBEs who attended and are capable of performing work on the project.
- Any other information or documentation that demonstrates the Contractor conducted good faith efforts to provide opportunities for MWBE participation in their work. For instance, Prime Contractors and MBOs should develop a list of MWBE firms that have expressed interest in working on SRF-funded projects
- The use of certified DBE and small businesses certified through the US Small Business Administration (SBA) may be considered as a demonstration of Good Faith Efforts.

### C. MWBE Utilization Plan

1. The MWBE Utilization Plan must be submitted to the Recipient's MBO after the bid opening, but in no case more than ten (10) business days after the Contractor receives notice from the Recipient that the Contractor has submitted a low bid.
2. The MBO will evaluate a completed MWBE Utilization Plan. If the MBO finds the Utilization Plan sufficient, it will be forwarded to EFC for review. If the MBO finds the Utilization Plan insufficient, the MBO will work with the Contractor to address deficiencies

before submitting to EFC for review. A written notice of acceptance or deficiency will be issued by EFC within 20 business days of receipt of the Utilization Plan. Upon receipt of a notice of deficiency from either the MBO or EFC, the Contractor shall respond with a written remedy to such notice within seven (7) business days of receipt.

3. In coordination with the MBO, EFC will accept an MWBE Utilization Plan upon consideration of many factors, including the following:
  - a. The MWBE Utilization Plan indicates that the proposed goals for the project will be achieved;
  - b. A Contractor, who is a certified MBE or WBE, will be credited for up to 100% of the category of their certification. However, good faith efforts to seek participation in the other category are also required; and,
  - c. Adequate documentation to demonstrate good faith efforts and/or support a specialty equipment/services waiver as described below in Section II(E).
4. EFC reserves the right to request additional information and/or documentation to support the adequacy of the MWBE Utilization Plan.
5. Within 10 days of EFC's acceptance of a MWBE Utilization Plan, EFC will post the approved Utilization Plan on the EFC website.
6. In coordination with the MBO, EFC may issue conditional acceptance of Utilization Plans pending submission of additional documentation that demonstrates there will be an increase in MWBE participation.

#### D. Eligibility for MWBE Participation Credit

1. To receive MWBE participation credit, Contractors or Subcontractors performing work that have been identified in an approved MWBE Utilization Plan must be certified as an MBE or WBE by ESD.
2. Prime Contractors may also include second or lower tier Subcontractors (Subcontractors hired by Subcontractors) on their MWBE Utilization Plan.
3. Credit for MWBE participation shall be granted only for MWBE firms performing a commercially useful business function according to custom and practice in the industry.
  - a. Factors to be used in assessing whether an MWBE is performing a commercially useful function include:
    - i. The amount of work subcontracted;
    - ii. Industry practices;
    - iii. Whether the amount the MWBE is to be paid under the contract is commensurate with the work it is to perform;
    - iv. The credit claimed towards MWBE utilization goals for the performance of the work by the MWBE; and,
    - v. Any other relevant factors.
  - b. "Commercially useful functions" normally include:
    - i. Providing technical assistance to a purchaser prior to a purchase, during installation, and after the supplies or equipment are placed in service;
    - ii. Manufacturing or being the first tier below the manufacturer of supplies or equipment;
    - iii. Providing functions other than merely accepting and referring requests for supplies or equipment to another party for direct shipment to a Contractor; or,
    - iv. Being responsible for ordering, negotiating price, and determining quality and quantity of materials and supplies.
  - c. For construction-related services Contracts or Subcontracts, the following rules apply when calculating MWBE utilization:
    - i. The portion of a Contract or Subcontract with an MWBE serving as a manufacturer that shall be deemed to represent the commercially useful function performed by the MWBE shall be 100% of the total value of the Contract or Subcontract.
    - ii. the portion of a Contract or Subcontract with an MWBE serving as a supplier (as denoted by a NAICS code beginning with 423 or 424, or a

NIGP code that does not begin with the number 9), and so designated in ESD's Directory, that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60% of the total value of the Contract or Subcontract.

- iii. the portion of a Contract or Subcontract with an MWBE serving as a broker (as denoted by NAICS code 425120) that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.
4. No credit will be granted for MWBEs that do not perform a commercially useful function. An MWBE does not perform a commercially useful function if its role adds no substantive value and is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of participation.

E. Requests for Waiver

1. If the Contractor's application of good faith efforts does not result in the utilization of MWBE firms to achieve the aforementioned goals or a specialty equipment/service waiver is requested, the Contractor may request a full or partial waiver of MWBE participation goals by completing a Request for Waiver form, attaching appropriate documentation of good faith efforts, and submitting same to the MBO. See also Required Contract Language, Section 1(III)(C). Even if an MWBE waiver is granted, EEO information must still be submitted.
2. The MBO and EFC will review each waiver request based on the good faith effort criteria presented above and the documentation submitted with the waiver request. EFC will not issue any automatic waivers from MWBE responsibilities.
3. In cases where EFC accepts a full or partial waiver of MWBE participation goals, the waiver request will be posted to EFC's website.
4. Specialty Equipment/Service Waiver: A specialty equipment/service waiver may be granted in cases where:
  - a. equipment is made by only one non-MWBE manufacturer,
  - b. the technical specifications call for equipment that is not available through an MWBE supplier;
  - c. the equipment is constructed on site by specially trained non-MWBE labor;
  - d. the service is not available through an MWBE (such as work done by National Grid);
  - e. the service is proprietary in nature (such as use of certain computer software necessary for control systems); or,
  - f. the service cannot be subcontracted (such as litigation services).

If the contract includes specialty equipment or services, and documentation is submitted demonstrating that there are no MWBE firms capable of completing this portion of the contract, the specialty amount of the contract may be deducted from the total contract amount to determine the MWBE Eligible Amount and the goals will be applied to the MWBE Eligible Amount. This determination is made at the discretion of the MBO and EFC.

Example:  
\$200,000 - \$50,000 = \$150,000  
(Contract) (Specialty equipment/service) (MWBE Eligible Amount)  
The MWBE goal is applied to the MWBE Eligible Amount.

A request for this specialty equipment/service deduction can be completed by filling out a Request for Waiver form and submitting it to the MBO. The request must include a copy of the page from the contract where the equipment/ service is described and the cost of each item. Additional documentation may be requested by the MBO or EFC.

### **III. Subcontractor's Responsibilities**

Subcontractors should:

1. Maintain their MWBE certifications, and notify the Contractor and MBO of any change in their certification status.
2. Notify the Contractor of any MWBE Subcontractors they hire so they may be included on the Contractor's Utilization Plan.
3. Respond promptly to solicitation requests by completing and submitting bid information in a timely manner.
4. Maintain business records that should include, but not be limited to, contracts/agreements, records of receipts, correspondence, purchase orders, and canceled checks.
5. Complete and submit the EPA Form 6100-3 - DBE Subcontractor Performance Form to the Contractor prior to submission of the Contractor's bid to the Recipient.
6. Complete and return EPA Form 6100-2 - DBE Subcontractor Participation Form to the Recipient prior to Contractor's execution of the contract.
7. Ensure that a required EEO Policy Statement and applicable MWBE requirements are included in each subcontract.
8. Notify the MBO and EFC when contract problems arise, such as non-payment for services or when the Subcontractor is not employed as described in the MWBE Utilization Plan.

### **IV. Protests/Complaints**

Contractors or Subcontractors who have any concerns, issues, or complaints regarding the implementation of the SRF MWBE & EEO Program, or wish to protest should do so in writing to the MBO and EFC. The MBO, in consultation with EFC, will review the circumstances described in the submission, investigate to develop additional information, if warranted, and determine whether action is required. If the Contractor or Subcontractor believes the issue has not been resolved to their satisfaction, they may appeal in writing to EFC for consideration.

### **V. Waste, Fraud and Abuse**

Subcontractors, Contractors, or Recipients who know of or suspect any instances of waste, fraud, or abuse within the MWBE & EEO Program should notify the project MBO and EFC immediately. Additionally, suspected fraud activity should be reported to the USEPA – Office of Inspector General Hotline at (888) 546-8740, the New York State Office of Inspector General at (800) 367-4448, or the ESD Compliance Office at (212) 803-3266.

## **SECTION 2 GUIDANCE FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES (“SDVOB”) PARTICIPATION OPPORTUNITIES**

Contractor may contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov) to discuss methods of maximizing participation by SDVOBs on the Contract. The directory of New York State Certified SDVOBs can be viewed at: <http://ogs.ny.gov/Core/SDVOBA.asp>

Please contact EFC if you have any questions about utilizing SDVOBs on the Contract.



### **SECTION 3          GUIDANCE FOR REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT**

A list of debarred and suspended contractors, pursuant to 2 CFR Parts 180 and 1532 and 29 CFR § 5.12, is available on the US Department of Labor's website at <https://www.sam.gov/portal/public/SAM/>.

A list of contractors and subcontractors deemed ineligible to submit a bid on or be awarded a public contract or subcontract, pursuant to Article 8 of the State Labor Law, is available on the New York State Department of Labor's website at <http://labor.ny.gov/workerprotection/publicwork/PDFs/debarred.pdf>

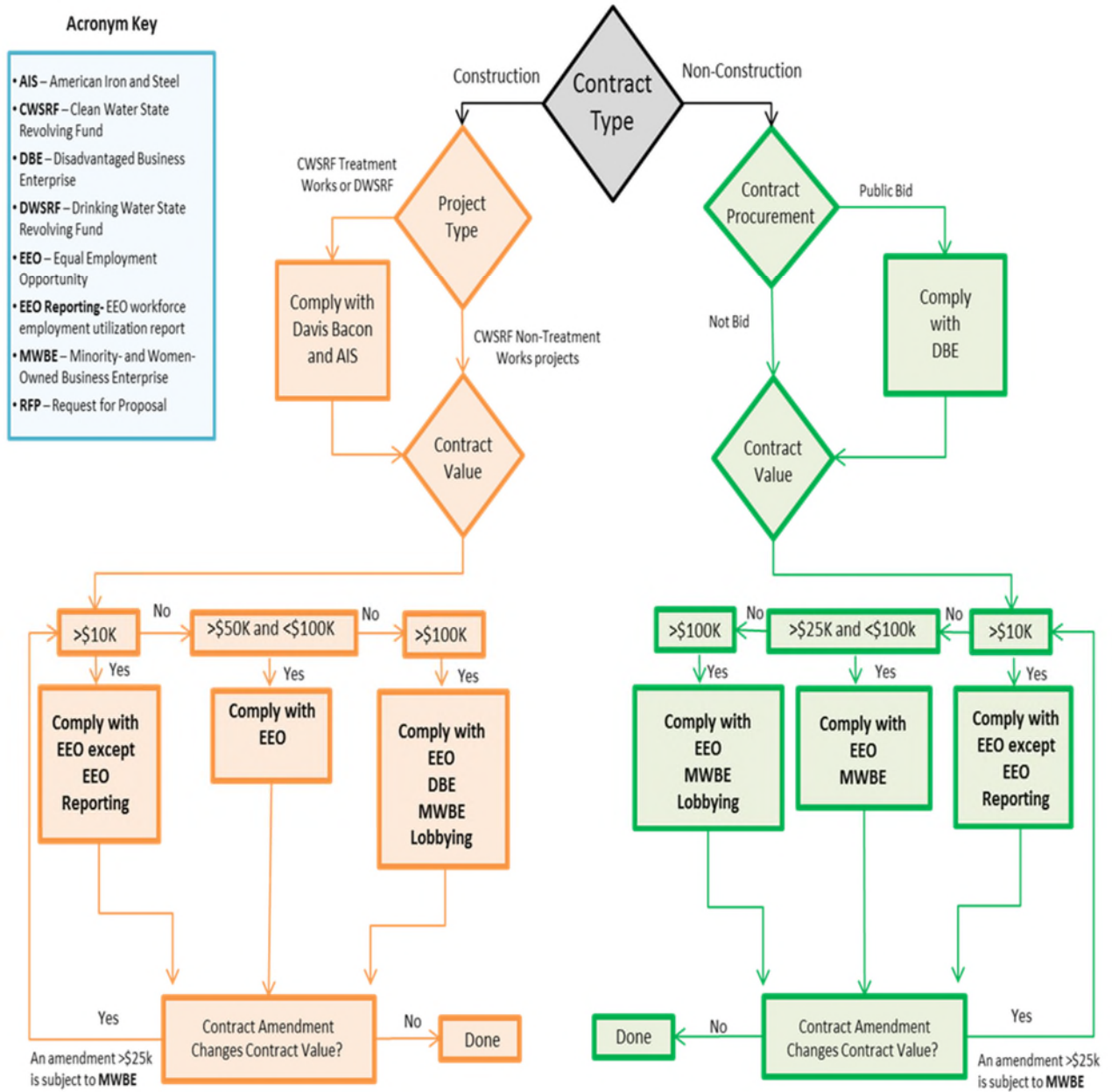
A list of contractors deemed ineligible to submit a bid is maintained by Empire State Development's Division of Minority and Women's Business Development.

### **SECTION 4          GUIDANCE FOR RESTRICTIONS ON LOBBYING**

Each Contractor and any Subcontractor that has a Contract or Subcontract exceeding \$100,000 shall provide to the Recipient a completed Certification Regarding Lobbying pursuant to 40 CFR Part 34 ("Lobbying Certification") in the form attached hereto as Attachment 10 consistent with the prescribed form provided in Appendix A to 40 CFR Part 34. The form provides a certification that the Contractor or Subcontractor will not expend appropriated federal funds to pay any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, officer or employee of Congress or any employee of any Member of Congress in accordance with the provisions of 40 CFR Part 34, and to maintain such certification for their own records. It is noted that disbursement of funds may be withheld until the Lobbying Certification form has been received by the Recipient.

# SECTION 5

# PROGRAM CONTRACT REQUIREMENT DECISION TREE



## SECTION 6 SUMMARY OF CONTRACTOR REQUIREMENTS FOR SRF-FUNDED PROJECTS

Forms can be found as attachments to this document or online at [www.efc.ny.gov](http://www.efc.ny.gov)

Forms should be submitted electronically via email or through EFC's [dropbox](#)

### To be submitted with this bid:

- EEO Policy Statement
- Documented Proof that EPA Form 6100-2 - DBE Subcontractor Participation Form was given to MWBE Subcontractors
- EPA Form 6100-3 - DBE Subcontractor Performance Form
- EPA Form 6100-4 - DBE Subcontractor Utilization Form
- Lobbying Certification

**Refer to Part 3  
Guidance Section**  
Section 1  
Section 1  
Section 1  
Section 1  
Section 4

### To be submitted prior to or upon Contract award:

- Executed Contracts, Subcontracts, agreements, and purchase orders
- MWBE Utilization Plan and/or Waiver Request
- EEO Staffing Plan

Section 1  
Section 1

### Ongoing documentation & tasks:

- EEO Workforce Utilization Report
- Submit Monthly MWBE Reports to MBO
- Maintain proof of payments for MWBE Subcontractors
- Ensure that all Subcontracts contain Part 2: Required Contract Language

Section 1  
Section 1  
Section 1

**Attachment 1**  
**New York State Environmental Facilities Corporation**  
**EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT**  
**NEW YORK STATE REVOLVING FUND (SRF)**

I, \_\_\_\_\_, am the authorized representative of \_\_\_\_\_.  
Name of Representative Name of Contractor/Service Provider  
I hereby certify that \_\_\_\_\_ will abide by the equal employment  
Name of Contractor/Service Provider  
opportunity (EEO) policy statement provisions outlined below.

- (i) The Contractor will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on Contracts relating to SRF projects.
- (ii) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the Contract relating to this SRF project, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- (iii) The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status, and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
- (iv) The Contractor shall comply with the provisions of the Human Rights Law (Article 15 of the Executive Law), including those relating to non-discrimination on the basis of prior criminal conviction and prior arrest, and with all other State and federal statutory and constitutional non-discrimination provisions, including Titles VI and VII of the Civil Rights Act of 1964, 40 CFR Part 7, 41 CFR Part 60-1 Subpart A, 41 CFR Part 60-4, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. The Contractor and Subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status.
- (v) The Contractor will include the provisions of subdivisions (i) through (iv) in every Subcontract in such a manner that the requirements of these subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.

**X**

\_\_\_\_\_  
Contractor/Service Provider Representative

**Attachment 2  
New York State Environmental Facilities Corporation  
Equal Employment Opportunity (EEO) Staffing Plan**

Municipality:	County:	SRF Project No.:	Contract ID:
Service Provider Name:		Date:	

**Report Includes – Please select one from the options below:**

- Workforce utilized on this contract
- Contractor/subcontractor's total workforce

**Reporting Entity – Please select one from the options below:**

- Prime Service Provider
- Subcontractor

Job Categories	Hispanic/ Latino		Not Hispanic or Latino											
			Male						Female					
	Male	Female	White	Black/ African American	Native Hawaiian/ Other Pacific Islander	Asian	Native American/ Alaska Native	Two or More Races	White	Black/ African American	Native Hawaiian/ Other Pacific Islander	Asian	Native American/ Alaska Native	Two or More Races
Senior Level Officials/Managers	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mid-Level Officials/Managers	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Professionals	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Technicians	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sales Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Administrative Support Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Skilled Craftsmen	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Operatives Semi-Skilled	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Laborers & Helpers	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Service Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Journeypersons														
Apprentices														
Trainees														

<b>Electronic Signature of Service Provider:</b> <input type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge. <b>Name</b> (Please Type):	<b>Date:</b>
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**Attachment 2**  
**New York State Environmental Facilities Corporation**  
**Equal Employment Opportunity (EEO) Staffing Plan**  
**INSTRUCTIONS**

All Service Providers (including legal, engineering, financial advisory or other professional services, and labor) and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan and submit it no later than the date of execution of the contract to the Recipient's Minority Business Officer (MBO). Where the work force to be utilized in the performance of the contract **can** be separated out from the contractor's or subcontractors' total work force, the contractor shall complete this form *only for the anticipated work force to be utilized on the contract*. Where the work force to be utilized in the performance of the contract **cannot** be separated out from the contractor's or subcontractors' total work force, the contractor shall complete this form for the contractor's or subcontractors' *total work force*.

**RACE/ETHNIC IDENTIFICATION:** Definitions of race and ethnicity for purposes of completion of this form are as follows:

- **Hispanic or Latino** - A person having origins in Cuba, Mexico, Puerto Rico, South or Central America.
- **White** - A person having origins of Europe, the Middle East, or North Africa.
- **Black or African-American** - A person having origins in any of the black racial groups of Africa.
- **Native Hawaiian or Other Pacific Islander**- A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- **Asian** - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent
- **American Indian or Alaska Native** – **A person having** origins in any of the original peoples of North, Central, and South America and who maintain tribal affiliation or community attachment.
- **Two or More Races** - All persons who identify with more than one of the above (Non-Hispanic or Latino) five races.

**DESCRIPTION OF JOB CATEGORIES:** The major job categories used in EEO Staffing Plan are as follows:

- **Senior Level Officials and Managers** - Individuals residing in the highest levels of organizations who plan, direct and formulate policies, set strategy and provide the overall direction of enterprises/organizations for the development and delivery of products or services.
- **Mid-Level Officials and Managers** - Individuals who receive directions from the Senior Level management and serve as managers, other than those who serve as Senior Level Officials and Managers, including those who oversee and direct the delivery of products, services or functions at group, regional or divisional levels of organizations.
- **Professionals** - Most jobs in this category require bachelor and graduate degrees, and/or professional certification. In some instances, comparable experience may establish a person's qualifications.
- **Technicians** - Jobs in this category include activities that require applied scientific skills, usually obtained by post-secondary education of varying lengths, depending on the particular occupation, recognizing that in some instances additional training, certification, or comparable experience is required.
- **Sales Workers** - These jobs include non-managerial activities that wholly and primarily involve direct sales.
- **Administrative Support Workers** - These jobs involve non-managerial tasks providing administrative and support assistance, primarily in office settings.
- **Skilled Craftsmen** – Includes higher skilled occupations in construction (building trades craft workers and their formal apprentices) and natural resource extraction workers. Examples of these types of positions include: boilermakers; brick and stone masons; carpenters; electricians; painters.
- **Operatives Semi-Skilled** - Most jobs in this category include intermediate skilled occupations and include workers who operate machines or factory-related processing equipment. Most of these occupations do not usually require more than several months of training. Examples include: textile machine workers.
- **Laborers & Helpers** - Jobs in this category include workers with more limited skills who require only brief training to perform tasks that require little or no independent judgment.
- **Service Workers** - Jobs in this category include food service, cleaning service, personal service, and protective service activities.

See the bid packet at [www.efc.ny.gov](http://www.efc.ny.gov) or your designated MBO for further guidance.

### **Attachment 3**

## **Instructions for Completing and Submitting the Equal Employment Opportunity Workforce Utilization Report**

The Equal Employment Opportunity (“EEO”) Workforce Utilization Report (“Report”) is used by contractors and subcontractors to report the actual workforce utilized in the performance of the contract broken down by job title for a particular reporting period. When the workforce utilized in the performance of the contract can be separated out from the contractor’s and/or subcontractor’s total workforce, the contractor and/or subcontractor shall submit a Report of the workforce utilized on the contract. When the workforce to be utilized on the contract cannot be separated out from the contractor’s and/or subcontractor’s total workforce, information on the contractor’s and/or subcontractor’s total workforce shall be included in the Report.

### **Instructions for Completing the Report**

1. **Reporting Entity.** Check off the appropriate box to indicate if the entity completing the Report is the contractor or a subcontractor.
2. **Federal Employer Identification Number (“FEIN”).** Enter the FEIN assigned by the Internal Revenue Service (“IRS”) to the contractor or subcontractor for which the Report has been prepared. If the contractor or subcontractor uses a social security number instead of a FEIN, leave this field blank. The contractors and subcontractors for recipients of a grant only (such as an Engineering Planning Grant (EPG), a Water Infrastructure Improvement Act (WIIA) grant, or an Intermunicipal Grant Program (IMG) grant) do not need to fill out this section of the Report.
3. **Name.** Enter the name of the contractor or subcontractor for which the Report has been prepared.
4. **Address.** Enter the address of the contractor or subcontractor for which the Report has been prepared.
5. **Contract Number.** Enter the number of contract that the Report applies to, if applicable.
6. **Reporting Period / Month.** Check off the box that corresponds to the applicable quarterly or monthly (not both) reporting period for this Report. The Report is to be submitted on a monthly basis for construction contracts, and a quarterly basis based on the calendar quarter for all other contracts, during the life of the contract.
7. **Workforce Identified in Report.** Check off the appropriate box to indicate if the workforce being reported is just for the contract or the contractor’s or subcontractor’s total workforce.
8. **Preparer’s Name, Preparer’s Title, Date.** Enter the name and title for the person completing the Report, enter the date upon which the Report was completed, and check the box accepting the name entered into the Report as the digital signature of the preparer.
9. **Occupation Classifications (SOC Major Group) and SOC Job Title.** First, enter the applicable Occupation Classification (SOC Major Group) so a dropdown menu appears under SOC Job Title. Choose the SOC Job Title that best describes the worker.
10. **EEO Job Title and SOC Job Code.** The EEO Job Title and the SOC Job Code will automatically populate in the spreadsheet based upon the Occupation Classifications (SOC Major Group) and SOC Job Title selected. Please do not modify the information populated in these fields.

11. **Race/Ethnic Identification.** Race/ethnic designations do not denote scientific definitions of anthropological origins. For the purposes of this Report, an employee must be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this Report are:
- **WHITE** (not of Hispanic origin) all persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
  - **BLACK/AFRICAN AMERICAN** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
  - **HISPANIC/LATINO** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
  - **ASIAN, NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
  - **NATIVE AMERICAN/ALASKAN NATIVE** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.
12. **Number of Employees and Number of Hours.** Enter the number of employees and the total number of hours worked by such employees for each SOC Job Title under the columns corresponding to the gender and racial/ethnic groups with which the employees most closely identify.
13. **Total Compensation.** Enter the total compensation paid to all employees for each SOC Job Title, each gender, and each racial/ethnic group. Contractors and subcontractors should report only compensation for work on the contract paid to employees during the period covered by the Report. Compensation should include only sums which must be reported in Box 1 of IRS Form W-2. The contractors and subcontractors for recipients of a grant only (such as an EPG, a WIIA, or an IMG grant) do not need to fill out this section of the Report.
14. **For EFC Use Only.** This section is for EFC use only and does not need to be filled out by the contractor/subcontractor.

### Instructions for Submitting the Report

The Report is to be submitted on a monthly basis for construction contracts, and a quarterly basis based on the calendar quarter for all other contracts, during the life of the contract.

EFC will provide a Report form in Excel format to the Recipient's Minority Business Officer ("MBO"). The Recipient's MBO is responsible for providing the Report form to all contractors. Each contractor is responsible for providing the Report form to all subcontractors.

Reports are to be submitted electronically in Excel format, using the Report form provided, within ten (10) days of the end of each month or quarter, whichever is applicable. For example, the January monthly Report for a construction contract is due by February 10<sup>th</sup> and the January – March quarterly Report for a non-construction contract is due by April 10<sup>th</sup>.

Once the Report form has been completed, each contractor/subcontractor must submit the Report form to EFC and the Recipient's MBO. The Report form must be submitted to EFC according to the following instructions:

1. Go to [www.efc.ny.gov/eeoreporting](http://www.efc.ny.gov/eeoreporting).
2. Enter the requested information pursuant to the instructions on the page. Make sure to choose the correct applicable funding program (Clean Water State Revolving Fund (SRF), Drinking Water SRF, non-SRF Grant Only (e.g. EPG, WIIA, IMG)) and the correct reporting period (reporting



quarter for non-construction OR reporting month for construction). Enter the reporting period of the data, not the date it's submitted.

3. Submit your Report(s) pursuant to the instructions on the page.
4. If you are a contractor, use the naming convention provided by EFC (in the "For EFC Use Only" section of the Report form) for naming the file for upload (i.e., Funding Program – Project Number– Contractor short name (up to fifteen characters) – MWBE ID). The funding programs include CW (clean water SRF), DW (drinking water SRF), and GO (non-SRF grant only). If you are a subcontractor, use the naming convention provided by EFC and replace the contractor's short name with the first fifteen characters of the subcontractor's name, omitting any spaces or special characters.

### **Questions**

If you have questions about or require assistance completing or submitting the Report, please contact EFC at [mwbe@efc.ny.gov](mailto:mwbe@efc.ny.gov) or 518-402-6924.



**Attachment 4**  
**New York State Environmental Facilities Corporation**  
**Monthly Minority- & Women- Owned Business Enterprise (MWBE) Contractor Compliance Report**  
**(“Monthly MWBE Report”)**

**Instructions:**

- Contractors are to complete the report in Word version and email to the Recipient’s Minority Business Officer (“MBO”) on a monthly basis.
- If you require additional pages, you may find them on EFC’s website at [www.efc.ny.gov](http://www.efc.ny.gov).
- **All** MWBE Subcontractors for this contract **MUST** be listed on the form regardless of whether they were paid this month.
- Please save Report as “*MRReport – (Project No). – (Municipality) – (Firm Name) – (Date)*” and send the Word version of this document.
- Proofs of payment in the amounts shown below must be transmitted to the MBO with the report.

Municipality:		County:		Contract ID:		Month:	Year:	
Project No.:		GIGP/EPG No:		Registration No. (NYC only):				
Prime Contractor/Service Provider:			Award Date:		Start Date:		<b>Date all MWBE subs paid in full:</b>	
<b>Signature of Contractor:</b> <input type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.							Date:	
Last Month’s Contract Amt: \$	<b>MWBE Eligible Amt: \$</b> (Goals are applied to this amount and includes eligible change orders, amendments & waivers)		<b>EFC MWBE Goals</b>			<b>Total Paid to Prime</b>		
Revised Contract Amt: \$			MBE: %	MBE Amt: \$	Total Paid this Month: \$			
			WBE: %	WBE Amt: \$	Total Paid to Date: \$			
			Total: %	Total Amt: \$				
NYS Certified MWBE Contractor & Subcontractor		Please Specify Any Revisions this Month.		Subcontractor Total Amount		Payments this Month	Previous Payments	Total Payments Made to Date
				Original	Revised			
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A		<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED						
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A		<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED						
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A		<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED						

**Attachment 4**  
**New York State Environmental Facilities Corporation**  
**Monthly Minority- & Women- Owned Business Enterprise (MWBE) Contractor Compliance Report**  
**(“Monthly MWBE Report”)**

NYS Certified MWBE Contractor & Subcontractor	Please Specify Any Revisions this Month.	Subcontractor Contract Amount		Payments this Month	Previous Payments	Total Payments Made to Date
		Original	Revised			
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					

**Attachment 4**  
**New York State Environmental Facilities Corporation**  
**Monthly Minority- & Women- Owned Business Enterprise (MWBE) Contractor Compliance Report**  
**(“Monthly MWBE Report”)**

NYS Certified MWBE Contractor & Subcontractor	Please Specify Any Revisions this Month.	Subcontractor Total Amount		Payments this Month	Previous Payments	Total Payments Made to Date
		Original	Revised			
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					

**Attachment 4**  
**New York State Environmental Facilities Corporation**  
**Monthly Minority- & Women- Owned Business Enterprise (MWBE) Contractor Compliance Report**  
**(“Monthly MWBE Report”)**

Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED				
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED				
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED				
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other: <u>Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED				
Additional Pages can be found at <a href="http://www.efc.ny.gov">www.efc.ny.gov</a> TOTAL					
<b>Please explain any revisions and note the scope of work that new subcontractors will be providing. Please note that change orders over \$25K may require that good faith efforts be made to obtain additional MWBE participation:</b>					

**Attachment 5**  
**NYS Environmental Facilities Corporation**  
**Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan**

**Instructions for Contractors & Service Providers:**

Contractors and Service Providers must complete Sections 2 and 3. **Submit the completed, signed (electronic signature box checked and dated) form in Microsoft Word format to the Recipient's designated Minority Business Officer (MBO) no later than the date of contract execution.** Incomplete forms will be found deficient. If more than 10 subcontractors are used, additional pages for Section 3 can be found on EFC's website.

**If the prime contract is being performed by the parties to a Joint Venture, Teaming Agreement, or Mentor-Protégé Agreement that includes a certified MWBE, please contact EFC for assistance.**

MWBE firms must be certified by the NYS Empire State Development Corporation (ESD) in order to be counted towards satisfaction of MWBE participation goals. The utilization of certified MWBEs for non-commercially useful functions may not be counted towards utilization of certified MWBEs in the Utilization Plan. Please note whether a firm is serving as a broker or supplier on the contract. A broker is denoted by NAICS code 425120 and is designated as a broker in ESD's MWBE Directory. A supplier is denoted by a NAICS code beginning with 423 or 424, or a NIGP code that does not begin with the number 9, and is designated as a supplier in ESD's MWBE Directory. If a firm is serving as a broker, please additionally provide the percentage of the broker's commission on the contract.

See the Bid Packet at [www.efc.ny.gov](http://www.efc.ny.gov) or consult your designated MBO for further guidance.

**Instructions for Minority Business Officers (MBO):**

The MBO must complete Section 1. The MBO may designate an Authorized Representative to complete and submit quarterly payment reports on its behalf, and, if so designated, the MBO's Authorized Representative must also complete Section 1. The Authorized Representative may only submit quarterly payment reports on behalf of the MBO and may not submit any other required forms or reports for the MBO. The MBO must complete Section 1 even if designating an Authorized Representative. **Submit the completed, signed (electronic signature box checked and dated) form in Microsoft Word format via e-mail to your EFC MWBE Representative.**

The subject heading of the e-mail to the EFC MWBE Representative should follow the format "UP, Project Number, Contractor." EFC will review the Utilization Plan and notify the MBO via e-mail of its acceptance or denial.

Within 10 days of EFC's acceptance of a Utilization Plan, EFC will post the approved Utilization Plan on the EFC website.

**Attachment 5  
NYS Environmental Facilities Corporation  
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan**

SECTION 1: MUNICIPAL INFORMATION			
<b>Recipient/Municipality:</b>		<b>County:</b>	
<b>Project No.:</b>	<b>GIGP/EPG No.:</b>	<b>Contract ID:</b>	<b>Registration No. (NYC only):</b>
<b>Minority Business Officer:</b>		<b>Email:</b>	<b>Phone #:</b>
<b>Address of MBO:</b>			
<b>Electronic Signature of MBO:</b> <input type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.			<b>Date:</b>
<b>Complete if applicable:</b>			
<b>Authorized Representative:</b>		<b>Title:</b>	
<b>Authorized Rep. Company:</b>		<b>Email:</b>	<b>Phone #:</b>
<b>Electronic Signature of Authorized Rep.:</b> <input type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.			<b>Date:</b>

SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION				
<b>Firm Name:</b>			<b>Contract Type:</b> <input type="checkbox"/> Construction <input type="checkbox"/> Other Services	
<b>Prime Firm is Certified as:</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> N/A <input type="checkbox"/> Other: Please repeat information in the Utilization Plan below (Section 3). If dual certified, you must select either MBE or WBE.				
<b>Address:</b>		<b>Phone #:</b>	<b>Fed. Employer ID #:</b>	
<b>Description of Work:</b>				
<b>Award Date:</b>	<b>Start Date:</b>	<b>Completion Date:</b>	<b>MWBE GOAL Total</b>	<b>PROPOSED MWBE Participation</b>
<b>Total Contract Amount: \$</b>			<b>MBE:</b> %    \$	<b>MBE:</b> %    \$
<b>MWBE Eligible Contract Amount: \$</b> (MWBE Goals are applied to this amount and includes all change orders, amendments, & waivers)			<b>WBE:</b> %    \$	<b>WBE:</b> %    \$
			<b>Total:</b> %    \$	<b>Total:</b> %    \$



**Attachment 5**  
**NYS Environmental Facilities Corporation**  
**Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan**

SECTION 3: M/WBE SUBCONTRACTOR INFORMATION				
<b>This Submittal is:</b> <input type="checkbox"/> The First/Original Utilization Plan <input type="checkbox"/> Revised Utilization Plan #:				
NYS Certified M/WBE Subcontractor Info		Contract Amount:		For EFC Use:
		MBE (\$)	WBE (\$)	
<b>Name:</b>		<b>Fed. Employer ID#:</b>		
<b>Address:</b>		<b>Phone #:</b>		
<b>Scope of Work:</b>		<b>Email:</b>		
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:		<b>Start Date:</b>		
Select Only One: <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A		<b>Completion Date:</b>		
<b>Full Contract Amount: \$</b>				
<b>Name:</b>		<b>Fed. Employer ID#:</b>		
<b>Address:</b>		<b>Phone #:</b>		
<b>Scope of Work:</b>		<b>Email:</b>		
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:		<b>Start Date:</b>		
Select Only One: <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A		<b>Completion Date:</b>		
<b>Full Contract Amount: \$</b>				
<b>Name:</b>		<b>Fed. Employer ID#:</b>		
<b>Address:</b>		<b>Phone #:</b>		
<b>Scope of Work:</b>		<b>Email:</b>		
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:		<b>Start Date:</b>		
Select Only One: <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A		<b>Completion Date:</b>		
<b>Full Contract Amount: \$</b>				
<b>Name:</b>		<b>Fed. Employer ID#:</b>		
<b>Address:</b>		<b>Phone #:</b>		
<b>Scope of Work:</b>		<b>Email:</b>		
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:		<b>Start Date:</b>		
Select Only One: <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A		<b>Completion Date:</b>		
<b>Full Contract Amount: \$</b>				

**Attachment 5**  
**NYS Environmental Facilities Corporation**  
**Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan**

SECTION 3: M/WBE SUBCONTRACTOR INFORMATION continued				
<b>Name:</b>	Fed. Employer ID#:			
<b>Address:</b>	Phone #:			
<b>Scope of Work:</b>	Email:			
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>			
<b>Select Only One:</b> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<b>Completion Date:</b>			
<b>Full Contract Amount: \$</b>				
<b>Name:</b>	Fed. Employer ID#:			
<b>Address:</b>	Phone #:			
<b>Scope of Work:</b>	Email:			
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>			
<b>Select Only One:</b> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<b>Completion Date:</b>			
<b>Full Contract Amount: \$</b>				
<b>Name:</b>	Fed. Employer ID#:			
<b>Address:</b>	Phone #:			
<b>Scope of Work:</b>	Email:			
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>			
<b>Select Only One:</b> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<b>Completion Date:</b>			
<b>Full Contract Amount: \$</b>				
<b>Name:</b>	Fed. Employer ID#:			
<b>Address:</b>	Phone #:			
<b>Scope of Work:</b>	Email:			
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>			
<b>Select Only One:</b> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<b>Completion Date:</b>			
<b>Full Contract Amount: \$</b>				
SIGNATURE				
<b>Electronic Signature of Contractor:</b> <input type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and that all MWBE subcontractors will perform a commercially useful function.				<b>Date:</b>
<b>Name (Please Type):</b>				

**Attachment 6**  
**New York State Environmental Facilities Corporation**  
**Minority & Women Owned Business Enterprise (MWBE) Waiver Request Form**

**Instructions for Contractors & Service Providers:**

Contractors and Service Providers must complete Sections 2, 3, and 4. **Submit the completed, signed (electronic signature box checked and dated) form in Microsoft Word format to the Recipient's designated Minority Business Officer (MBO).** Incomplete forms will be found deficient.

See the Bid Packet at [www.efc.ny.gov](http://www.efc.ny.gov) or consult your designated MBO for further guidance.

**Instructions for Minority Business Officers (MBO):**

The MBO must complete Section 1. **Submit the completed, signed (electronic signature box checked and dated) form in Microsoft Word format via e-mail to your EFC MWBE Representative.** The subject heading of the e-mail to the EFC MWBE Representative should follow the format "Waiver Request, Project Number, Contractor." EFC will review and notify the MBO via e-mail of its acceptance or denial.

If a partial MWBE waiver is requested, an MWBE Utilization Plan must also be submitted for the amount of proposed MWBE participation.

SECTION 1: MUNICIPAL INFORMATION			
Recipient/Municipality:		County:	
Project No.:	GIGP/EPG No.:	Contract ID:	Registration No. (NYC only):
Minority Business Officer (MBO):		Email:	Phone #:
Address of MBO:			
Signature of MBO: <input type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.			Date:

SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION			
Firm Name:		Contract Type: <input type="checkbox"/> Construction <input type="checkbox"/> Other Services	
Prime Firm is Certified as: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> N/A <input type="checkbox"/> Other:			
Address:		Phone #:	Fed. Employer ID #:
Contact Information of Firm Representative Authorized to Discuss Waiver Request:			
Name:		Title:	Phone #: E-mail:
Description of Work:		<b>EFC MWBE GOAL Total</b>	
Award Date:	Start Date:	Completion Date:	<b>MBE:    %    \$</b>
Total Contract Amount: \$		<b>WBE:    %    \$</b>	
MWBE Eligible Contract Amount: \$ (MWBE Goals are applied to this amount and includes all change orders, amendments, & waivers)		<b>Total:    %    \$</b>	

**Attachment 6**  
**New York State Environmental Facilities Corporation**  
**Minority & Women Owned Business Enterprise (MWBE) Waiver Request Form**

**SECTION 3: TYPE OF MWBE WAIVER REQUESTED**

1.  **Full Waiver** (No MWBE participation)
2.  **Partial Waiver** (Less than the MWBE goals; indicate below the proposed MWBE participation)

**PROPOSED MWBE Participation**

**MBE:**        %    \$

**WBE:**        %    \$

**Total:**      %    \$

3.  **Specialty Equipment/Services Waiver** (Must be of SIGNIFICANT cost - list of equipment and cost must be attached in addition to the supporting documentation outlined below)

**SECTION 4: SUPPORTING DOCUMENTATION**

To be considered, the Request for Waiver Form must be accompanied by the documentation requested in items 1 – 9, as listed below. If a Specialty Equipment Waiver is requested, it must be accompanied by the documentation requested in items 1 - 13. If a Specialty Services Waiver is requested, it must be accompanied by the items requested in items 1 – 9 and item 14. Copies of the following information and all relevant supporting documentation must be submitted along with the request. Please contact EFC for assistance, including sample documentation.

1. A letter of explanation setting forth your basis for requesting a partial or total waiver and detailing the good faith efforts that were made.
2. Copies of advertisements in any general circulation, trade association, and minority- and women-oriented publications in which you solicited MWBEs for the purposes of complying with your participation goals, with the dates of publication.
3. Screenshots of search results (by business description or commodity code) from Empire State Development Corporation's (ESD) MWBE Directory of all certified MWBEs that were solicited for purposes of complying with your MWBE participation goals.
4. Copies of faxes, letters, or e-mails sent to MWBE firms to solicit participation and their responses.
5. A log of solicitation results, consisting of the list of MWBE firms solicited for the contract and the outcome of the solicitations. The log should be broken out into separate areas for each task that is solicited (e.g., trucking, materials, electricians) and clearly provide a rationale for firms included on the completed Utilization Plan as well as for those not chosen. The log should show: that each MWBE firm was contacted twice by two different methods (e.g., fax and phone); who was spoken to; what was said; and the final outcome of the solicitation.
6. A description of any contract documents, plans, or specifications made available to MWBEs for purposes of soliciting their bids and the date and manner in which these documents were made available. Specifically, include information on the scope of work in the contract and a breakout of tasks or equipment, such as

**Attachment 6**  
**New York State Environmental Facilities Corporation**  
**Minority & Women Owned Business Enterprise (MWBE) Waiver Request Form**

a schedule of values for a construction contract or a proposal or excerpt from a professional services agreement.

7. Documentation of any negotiations between you, the Contractor, and the MWBEs undertaken for purposes of complying with your MWBE participation goals.
8. Any other information you deem relevant which may help us in evaluating your request for a waiver. Examples may include sign-in sheets from any pre-bid meetings where MWBE firms were invited, attendance at MWBE forums, etc.
9. EFC and the MBO reserve the right to request additional information and/or documentation.

**Additional Documentation for Requests for Specialty Equipment Waivers:**

10. Copies of the appropriate pages of the technical specification related to the equipment showing the choices for manufacturers or other information that limits the choice of vendor.
11. Letter, e-mail or screenshot of website from the manufacturer listing their distributors in NYS and the locations.
12. Screenshots of ESD's MWBE Directory searches for the manufacturer and distributor showing that they are not found in the Directory.
13. An invoice or purchase order showing the value of the equipment.

**Additional Documentation for Requests for Specialty Service Waivers:**

14. A letter of explanation containing information about the scope of work and why no MWBE firms could be subcontracted to provide that service.

**Note:** Unless a Total Waiver has been granted, Firms will be required to submit all reports and documents pursuant to the provisions set forth in the procurement and/or contract, as deemed appropriate by EFC, to determine MWBE compliance. In cases where EFC accepts a full or partial waiver of MWBE participation goals, the waiver request will be posted to EFC's website.

**SIGNATURE**

**Electronic Signature of Contractor:**

I certify that the information submitted herein is true, accurate and complete to the best of my knowledge.

**Name:** (Please Type):

**Date:**

**Attachment 7**  
**United States Environmental Protection Agency**  
**Form 6100-2**  
**DBE Subcontractor Participation Form**

## Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Participation Form

An EPA Financial Assistance Agreement Recipient must require its prime contractors to provide this form to its DBE subcontractors. This form gives a DBE<sup>1</sup> subcontractor<sup>2</sup> the opportunity to describe work received and/or report any concerns regarding the EPA-funded project (e.g., in areas such as termination by prime contractor, late payments, etc.). The DBE subcontractor can, as an option, complete and submit this form to the EPA DBE Coordinator at any time during the project period of performance.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Received from the Prime Contractor Involving Construction, Services, Equipment or Supplies	Amount Received by Prime Contractor

<sup>1</sup> A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup> Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

**Disadvantaged Business Enterprise (DBE) Program  
DBE Subcontractor Participation Form**

Please use the space below to report any concerns regarding the above EPA-funded project:

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<b>Subcontractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.



**Attachment 8**  
**United States Environmental Protection Agency**  
**Form 6100-3**  
**DBE Subcontractor Performance Form**

**Disadvantaged Business Enterprise (DBE) Program  
DBE Subcontractor Performance Form**

This form is intended to capture the DBE<sup>1</sup> subcontractor's<sup>2</sup> description of work to be performed and the price of the work submitted to the prime contractor. An EPA Financial Assistance Agreement Recipient must require its prime contractor to have its DBE subcontractors complete this form and include all completed forms in the prime contractor's bid or proposal package.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Submitted to the Prime Contractor Involving Construction, Services, Equipment or Supplies	Price of Work Submitted to the Prime Contractor
DBE Certified By: ___ DOT ___ SBA ___ Other: _____		Meets/ exceeds EPA certification standards? ___ YES ___ NO ___ Unknown

<sup>1</sup> A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup> Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

**Disadvantaged Business Enterprise (DBE) Program  
DBE Subcontractor Performance Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

<b>Prime Contractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

<b>Subcontractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

**Attachment 9**  
**United States Environmental Protection Agency**  
**Form 6100-4**  
**DBE Subcontractor Utilization Form**

### Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Utilization Form

This form is intended to capture the prime contractor's actual and/or anticipated use of identified certified DBE<sup>1</sup> subcontractors<sup>2</sup> and the estimated dollar amount of each subcontract. An EPA Financial Assistance Agreement Recipient must require its prime contractors to complete this form and include it in the bid or proposal package. Prime contractors should also maintain a copy of this form on file.

Prime Contractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Issuing/Funding Entity:			

I have identified potential DBE certified subcontractors	__ YES	__ NO	
If yes, please complete the table below. If no, please explain:			
Subcontractor Name/ Company Name	Company Address/ Phone/ Email	Est. Dollar Amt	Currently DBE Certified?

Continue on back if needed

<sup>1</sup> A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup> Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

**Disadvantaged Business Enterprise (DBE) Program  
DBE Subcontractor Utilization Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

<b>Prime Contractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

**Attachment 10**  
**New York State Environmental Facilities Corporation**  
**CERTIFICATION REGARDING LOBBYING**  
**FOR**  
**CONTRACTS, GRANTS, LOANS, AND**  
**COOPERATIVE AGREEMENTS**  
**40 CFR Part 34**

**SRF Project No.:** \_\_\_\_\_

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any 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 undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Contract ID: \_\_\_\_\_

## **APPENDIX B: PROJECT REFERENCE DATA**



## NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Water, Bureau of Permits  
625 Broadway, Albany, New York 12233-3505  
P: (518) 402-8111 | F: (518) 402-9029  
www.dec.ny.gov

February 2, 2018

Attn: Supervisor  
Town of Black Brook & Town of Jay  
11 School Street  
PO Box 730  
Au Sable Forks, NY 12912

Re: New Requirement to Disinfect Sewage Treatment Plant Effluent  
SPDES Permit No. NY 020 1910

Dear Supervisor,

This letter is to inform you of an anticipated State Pollutant Discharge Elimination System (SPDES) permit modification to require the addition of disinfection treatment of your sewage treatment plant effluent. We are also providing information about the availability of DEC/EFC Wastewater Infrastructure Engineering Planning Grants (EPG) that may help you with funding the preparation of an engineering report and planning activities, and the availability of Water Quality Improvement Project (WQIP) program grants that may help you with funding the construction of the disinfection system.

To protect public health and the environment, State regulations require that sewage treatment plant discharges be disinfected. Our records indicate that your SPDES permit does not conform to this requirement; your permit does not currently require disinfection although your discharge impacts waters that could be used for swimming, fishing, and contact recreation. Consequently, the Department of Environmental Conservation (Department) plans to modify your SPDES permit in the next three months to require disinfection treatment. Anticipated draft permit requirements include:

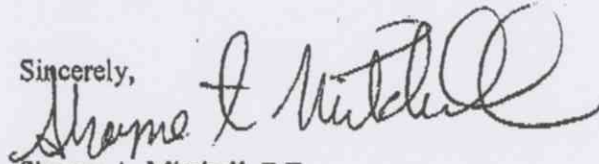
- Disinfection required May 1 – October 31 each year, beginning in 2023.
- Effluent limits for pathogens.
- If UV disinfection is selected, then chlorine monitoring will not be required. If chlorine disinfection is selected, then a total residual chlorine daily maximum effluent limit of 0.030 mg/l (estimated) will be required. Please note that in order to maintain adequate disinfection and achieve this chlorine level it is likely that effluent dechlorination will be necessary.
- A compliance schedule to submit final engineering documents in 2021 and begin operation in 2023.

If you have not completed an engineering report yet, we encourage you to apply for an EPG to assist you with planning for the addition of disinfection treatment. The 2018 Request for Applications will be announced in the Spring. Go to the EPG website for further information (<http://www.dec.ny.gov/pubs/81196.html>). The Department intends that permittees who have received this letter are eligible for EPG funding as long as the rest of the EPG eligibility criteria are met.

If you have completed an engineering report, we encourage you to apply for a WQIP program grant to assist you with implementation of the disinfection requirement. The 2018 Request for Applications will be announced in the Spring. Go to the WQIP webpage for further information (<http://www.dec.ny.gov/pubs/4774.html>). The Department intends that permittees who have received this letter are eligible for WQIP funding as long as the rest of the WQIP eligibility criteria are met.

If you would like to discuss the disinfection treatment requirement and the SPDES permit modification, please contact Alison Wasserbauer at (518) 402-8126. If you have questions concerning applying for the EPG and WQIP, please contact Leila Mitchell at (518) 402-8269.

Sincerely,



Shayne A. Mitchell, P.E.  
Chief, Wastewater Permits - West Section

Cc: NYSDEC, Regional Water Engineer, R5  
NYSDEC, Leila Mitchell  
NYSDEC, Catherine Traina  
NYSEFC, Co-Funding Coordinator

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of Environmental Quality, Region 5  
1115 State Route 86, PO Box 296, Ray Brook, NY 12977  
P: (518) 897-1241 | F: (518) 897-1245  
[www.dec.ny.gov](http://www.dec.ny.gov)

## Sent Via Email Only

January 25, 2018

Honorable Archie Depo  
Supervisor, Town of Jay  
11 School Lane, PO Box 730  
Au Sable Forks, NY 12912  
[supervisor@townofjay.gov](mailto:supervisor@townofjay.gov)

**RE: Notice of Violation and Compliance Inspection Report  
Au Sable Forks Community Wastewater Treatment Facility  
State Pollutant Discharge Elimination System (SPDES) Permit NY 0201910  
Jay (T), Essex County**

Dear Supervisor Depo:

On December 27, 2017, I conducted a scheduled inspection of the Au Sable Forks Community Wastewater Treatment Facility to assess compliance with the terms and conditions of the above-referenced SPDES permit. The facility received a marginal rating due to the following deficiencies:

### **Unsatisfied Information Request**

Title 6 of the New York State Codes, Rules and Regulations (6 NYCRR) Part 750-2.1(i) requires that permittees provide information requested by the Department. The department requested a written schedule (letters dated 11/28/16 and 8/30/17) for implementation of the repairs identified in the Department-approved plans & specifications for the rehabilitation of five pump stations damaged during Tropical Storm Irene in 2011. Failure to provide this information is a violation of 6 NYCRR Part 750-2.1(i). Although the Town's consultant provided an estimated date of construction completion of Fall 2018, please provide the Town's written commitment and schedule for this project by February 28, 2018.

### **Permit-required Effluent Flow Monitoring**

Facility operators discovered discrepancies in flow measurement results while conducting repairs at the Grove Road metering pit in late 2016. Fall 2017 troubleshooting with Essex County Environmental Manager, Todd Hodgson, revealed that the flow monitoring location established in the SPDES permit (effluent v-notch) appears to be skewing flow volumes lower than actual, as compared to both the POTW influent pump station and Grove Rd metering pit. Various proposed corrective



Department of  
Environmental  
Conservation

Hon. Archie Depo  
Re: Au Sable Forks Community WWTF  
January 25, 2018  
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measures have not yet been implemented. The Town must provide a written schedule to resolve the flow measuring discrepancies by February 28, 2018.

### **Process Control**

As discussed in prior inspection letters, monitoring and management of dissolved oxygen (D.O.) is critical to the facultative lagoon treatment process. Currently the dissolved oxygen meter is producing higher D.O. values than are possible. The Chief Operator has tried recalibrating and repairing the meter without success. A new meter is required to provide accurate data for SPDES permit compliance. Please provide documentation that the meter has been replaced by February 28, 2018.

### **Operations & Maintenance (O&M) Manual**

6 NYCRR Part 750-2.8(i) requires a written set of procedures for operation and maintenance. The existing O&M Manual must be updated to reflect the current aeration system which was upgraded in 2014. The O&M manual must be further updated after the five pump stations are upgraded. The certified operations staff must also be provided with "as-builts" for the pump stations when the construction is completed.

### **Staffing**

Chief Operator, Paul Mintz, has announced his resignation effective 1/12/18. The Department appreciates Mr. Mintz's efforts regarding facility operations.

As previously discussed with the town, SPDES regulations (6 NYCRR 750-2.8(a)(3) and 6 NYCRR 650) require that two appropriately certified wastewater operators be employed to properly operate and maintain the POTW. Please provide the names of the appropriately licensed staff who are currently operating the facility. Facility staff must meet the minimum requirements of 6 NYCRR Part 650. A certified operator was not present at the plant during 22 days in July 2017, a violation of the regulations.

Please complete and return no later than February 28, 2018, the enclosed Certificate of Compliance documenting your correction of deficiencies identified within the inspection report. The Department thanks Mr. Mintz for his time during the inspection. If you have any questions or comments regarding the enclosed, please contact me at the above number, or by e-mail at [tamara.venne@dec.ny.gov](mailto:tamara.venne@dec.ny.gov).

Sincerely,



Tamara J. Venne  
Environmental Program Specialist 1

Hon. Archie Depo  
Re: Au Sable Forks Community WWTF  
January 25, 2018  
Page 3

TJV:bk

Enclosure: Certificate of Compliance  
Inspection Report  
Comments

ec: R. Streeter, Regional Water Manager  
J. Douglass, Town of Black Brook Supervisor, [blackbrooksupervisor@yahoo.com](mailto:blackbrooksupervisor@yahoo.com)  
K. Zaumetzer, Town of Jay DPW Superintendent, [jayhwysupt@jaydpw.com](mailto:jayhwysupt@jaydpw.com)  
P. Mintz, [adkpaul@gmail.com](mailto:adkpaul@gmail.com)  
T. Hodgson, Essex Co. Environmental Manager, [THodgson@co.essex.ny.us](mailto:THodgson@co.essex.ny.us)  
C. Walton, Black Brook Water & Sewer Superintendent, [cwalton5412@yahoo.com](mailto:cwalton5412@yahoo.com)





# Certification of Compliance

For DEC Use:

Facility Name  SPDES ID

Regional Inspector  Date

Complete and return this Certification of Compliance by

Send to Regional Water Engineer:

1. Facility has corrected the violations specified in the inspection report cited or attached Notice of Violation; or certifying that permit or order schedule items are completed.
2. I am authorized as the permit holder to file this certification on behalf of the facility.
3. Submission of this certification does not limit enforcement or re-inspection by the department.

Please Submit Items Checked		Description of Compliance/Corrective Actions	Received Date
Photos	<input type="checkbox"/>		
Engineer's Certification	<input type="checkbox"/>		
Letter Describing Corrections Made	<input checked="" type="checkbox"/>	Letter containing Pump Station upgrade schedule, effluent flow meter repair schedule, wastewater operator certificates, accurate D.O. meter availability	
As-Built Plans	<input type="checkbox"/>		
Other	<input type="checkbox"/>		

### For Permittee Use:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Permittee (Per CFR 122.22)  
 (Print or Type)

Title

\_\_\_\_\_  
 Signature

Date Signed

**NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
DIVISION OF WATER  
MUNICIPAL WASTEWATER TREATMENT FACILITY INSPECTION**



Violations of 6 NYCRR Part 750 are subject to applicable civil, administrative, and criminal sanctions set forth in ECL Article 17 and as appropriate, the Clean Water Act.  
This form is a record of conditions which are observed in the field at the time of inspection and documentation of compliance with Part 750.

<b>Facility Name, Address, Phone Number(s):</b> Ausable Forks Community WWTF; 215 Grove Road, Jay, NY 12912; (518)647-2204			
<b>Permittee Name, Address, Phone Number(s):</b> Supervisor, Town of Jay; 11 School Street, PO Box 730, Ausable Forks, NY 12912-0730; (518)647-2204			
<b>Municipality (C/T/V):</b> Town of Jay	<b>County:</b> Essex	<b>SPDES Number:</b> NY 0201910	<b>DEC Region:</b> 5
<b>Inspector's Name and Title:</b> Tamara J Venne, Environmental Program Specialist			<b>Date:</b> 12/27/17
<b>Facility Representative(s) and Company(ies):</b> Paul Mintz, Chief Operator; Norm Coolidge Operator-in-Training (OIT)			<b>Time:</b> 0945 - 1230 hrs
<b>Name &amp; Class of Receiving Water:</b> Ausable River, Class C			<b>Weather:</b> COLD/dry
<b>Inspection Type:</b> <input type="checkbox"/> Site Visit <input type="checkbox"/> Reconnaissance <input checked="" type="checkbox"/> Comprehensive <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Announced <input type="checkbox"/> Unannounced <input type="checkbox"/> Sampling		<b>Overall Inspection Rating:</b> <input type="checkbox"/> Satisfactory <input checked="" type="checkbox"/> Marginal <input type="checkbox"/> Unsatisfactory	
<b>CODES:</b> S = Satisfactory    U = Unsatisfactory    F = Follow up    NR: Not Rated    NA: Not Applicable    NI = Not Inspected			

<b>A. Facility Description / General:</b>				<input type="checkbox"/> NI	<input type="checkbox"/> NA	
S	U	NR/NA	Item:	Comments	<u>Citation/Reference</u>	F
1.	<input checked="" type="radio"/>	<input type="radio"/>	A copy of SPDES permit available on-site?	Detailed permit limits onsite, admin. renewal not inspected	Part 750-2.1	<input type="checkbox"/>
	<input checked="" type="radio"/>	<input type="radio"/>	(a) Permit valid or expired (Date if expired)?	expires 5/31/23	Part 750-2.1	<input type="checkbox"/>
2.	<input checked="" type="radio"/>	<input type="radio"/>	Are all outfall discharge points permitted?	one outfall	Part 750-1.12	<input type="checkbox"/>
3.	<input type="radio"/>	<input type="radio"/>	Notified DEC of new/modified discharges?		Part 750-1.12	<input type="checkbox"/>
4.	<input checked="" type="radio"/>	<input type="radio"/>	Housekeeping (Office/grounds/lab)?	grounds and all pump stations plowed & accessible	Part 750-2.8	<input type="checkbox"/>
5.	<input type="radio"/>	<input checked="" type="radio"/>	Flow metering (Types/location/calibration)?	please see comment page; effluent Ultrasonic meter was calibrated Aug. 2017.	Part 750-2.5	<input checked="" type="checkbox"/>
6.	<input checked="" type="radio"/>	<input type="radio"/>	Odor complaints/issue? (If any odor issues, dates/corrective actions)	none received	Part 750-2.8	<input type="checkbox"/>
7.	<input checked="" type="radio"/>	<input type="radio"/>	Noise complaints/issue? (If any noise issues, dates/corrective actions)	none received	Part 750-2.8	<input type="checkbox"/>
8.	<input type="radio"/>	<input type="radio"/>	WTCs used/records properly maintained?		Part 750-2.5	<input type="checkbox"/>
9.	<input type="radio"/>	<input type="radio"/>	Nearby water supply(concerns)?	onsite well not tested	Part 750-2.8	<input type="checkbox"/>
10.	<input type="radio"/>	<input type="radio"/>	Other (Specify)?			<input type="checkbox"/>

Click Left Button to Clear Radio Button



**B. Collection System / Pump Station:**

NI  NA

100 % Separate, 0 % Combined.

Population of collection system: 222 S.T.s

Miles of Pipe: NI

Number of pump stations in system: 8

Number pump stations inspected: 6

	S	U	NR/ NA	Item:		Part	F
1.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Sewer overflows upstream of the plant? If any CSO/SSO (List reason/location)	<u>none occurred 2017</u>	Part 750-2.8	<input type="checkbox"/>
2.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Unpermitted overflows/bypasses inside the plant since last inspection? (If any, list date/corrective action)	<u>none occurred 2017</u>	Part 750-2.8	<input type="checkbox"/>
3.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Date when overflow/bypass channel used?		Part 750-2.8	<input type="checkbox"/>
4.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Any other in plant bypass designed for WWTP?  (a) List bypass frequency (Times per year).  (b) List average duration of bypass (Hours).	<u>internal bypass is designed but seldom used</u>  <u>bypass implemented during 2013 sludge removal</u>	Part 750-2.8  Part 750-2.8	<input type="checkbox"/>  <input type="checkbox"/>
5.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	CSO/SSO reported via NY-Alert/corrective action?	<u>additional SPRTK notifiers should be registered</u>	Part 750-2.7	<input checked="" type="checkbox"/>
6.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	CSO/SSO routinely inspected?		Part 750-2.8	<input type="checkbox"/>
7.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Infiltration/Inflow (I/I) (Present)?	<u>Flow records indicate I/I is present but minimal impacts on plant</u>	Part 750-2.9	<input type="checkbox"/>
8.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	I/I corrective actions? (TV/lining/sealing/replacement/inspections)	<u>No corrective actions are undertaken</u>	Part 750-2.9	<input type="checkbox"/>
9.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	Collection system inspection program?  (a) Pump station inspection program?	<u>Pump Stations &amp; Septic Tanks are inspected; manholes &amp; sewers are not done daily</u>	Part 750-2.8  Part 750-2.8	<input checked="" type="checkbox"/>  <input type="checkbox"/>
10.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	BMP/Wet Weather Plan (Date/reviewed)?		Part 750-2.9	<input type="checkbox"/>
11.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Sewer Use Ordinance (SUO) (Date/copy)?	<u>Town of Jay 09/20/1990; Town of Black Brook 09/20/1991</u>	Part 750-2.9	<input type="checkbox"/>
12.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Are all pump stations operational? (Backup/SCADA/telemetry/monitoring)  (a) No. pumps operational (Dry/wet weather)?	<u>Pump stations are operational but were severely damaged 2011; FEMA-funded rehab project is expected to be bid &amp; completed 2018</u>	Part 750-2.8  Part 750-2.8	<input type="checkbox"/>  <input checked="" type="checkbox"/>
13.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	Backup/spare pumps/parts available?	<u>Per Operator, some parts are not kept on hand and could take weeks to get</u>	Part 750-2.8	<input checked="" type="checkbox"/>
14.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Other (Specify)?	<u>Some sewer mains were cleaned post-Irene 2012 &amp; 2015</u>		<input type="checkbox"/>

Click Left Button to Clear Radio Button

**C. Industrial Waste/Pretreatment:**

NI  NA

	S	U	NR/ NA	Item:			F
1.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Mini program required by SPDES permit?	_____	Part 750-2.9	<input type="checkbox"/>
2.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Industrial waste discharge permits issued?	_____	Part 750-2.9	<input type="checkbox"/>
3.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Industrial waste accepted (Problems)?	_____	Part 750-2.8	<input type="checkbox"/>
4.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Outside septage accepted (Problems)?	_____	Part 750-2.8	<input type="checkbox"/>
5.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Monitoring reqd. /available for hauled waste?	_____	Part 750-2.5	<input type="checkbox"/>
6.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Other (Specify)?	_____		<input type="checkbox"/>

**D. Preliminary/Primary Treatment:**

NI  NA

	S	U	NR/ NA	Item:			F
1.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Influent pumps/wet wells/SCADA?	Operators record pump hours daily	Part 750-2.8	<input type="checkbox"/>
	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	(a) Corrosion observed?	_____	Part 750-2.8	<input type="checkbox"/>
2.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Screens/Comminutor?	S.T.E.D. septage receiving screening station not in use	Part 750-2.8	<input type="checkbox"/>
	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	(a) No./type/cleaning method(Auto/manual)?	_____	Part 750-2.8	<input type="checkbox"/>
3.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Screenings/Grit removal (records)?	_____	Part 750-2.5	<input type="checkbox"/>
4.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Flow equalization present/needed?	_____	Part 750-2.8	<input type="checkbox"/>
5.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Settling/Septic tanks?	commercial & residential tanks are on a 3-5 year rotation for pumpout	Part 750-2.8	<input type="checkbox"/>
6.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Sludge depth in primary clarifiers?	_____	Part 750-2.8	<input type="checkbox"/>
7.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Condition of primary clarifier effluent?	_____	Part 750-2.8	<input type="checkbox"/>
8.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Other (Specify):	_____		<input type="checkbox"/>

**E. Secondary Biological Treatment:**

NI  NA

	S	U	NR/ NA	Item:			F
1.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Fixed film/Suspended growth (Specify recycle rate)	_____	Part 750-2.8	<input type="checkbox"/>
2.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Rotating Biological Contactors (Specify shaft weight/flow)	_____	Part 750-2.8	<input type="checkbox"/>
3.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Activated sludge/MBR/SBRs	_____	Part 750-2.8	<input type="checkbox"/>

Click Left Button to Clear Radio Button

4.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Foaming/filamentous issues?	_____	Part 750-2.8	<input type="checkbox"/>
5.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Stabilization Ponds/Lagoons	two facultative lagoons, all aerators operational	Part 750-2.8	<input type="checkbox"/>
6.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Sand filter (recycle rate)	_____	Part 750-2.8	<input type="checkbox"/>
7.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	Process control values	D.O. meter values suspect (higher than saturation during cold weather)	Part 750-2.8	<input checked="" type="checkbox"/>
8.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Other (Specify)	_____		<input type="checkbox"/>

<b>F. Secondary Clarifier:</b>				<input type="checkbox"/> NI	<input checked="" type="checkbox"/> NA		
	S	U	NR/ NA	<b>Item:</b>			<b>F</b>
1.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Foam/solids/grease present on surface?	_____	Part 750-2.8	<input type="checkbox"/>
2.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Tank/weir cleaning date & weir level?	_____	Part 750-2.8	<input type="checkbox"/>
3.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Denitrification/gas bubbles on surface?	_____	Part 750-2.8	<input type="checkbox"/>
4.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Sludge blanket depth & RAS/WAS rates?	_____	Part 750-2.8	<input type="checkbox"/>
5.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Scum arm condition?	_____	Part 750-2.8	<input type="checkbox"/>
6.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Secondary effluent quality?	_____	Part 750-2.8	<input type="checkbox"/>
7.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Unplanned loss of solids reported/observed?	_____	Part 750-2.8	<input type="checkbox"/>
8.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Other (Specify)	_____		<input type="checkbox"/>

<b>G. Tertiary Treatment:</b>				<input type="checkbox"/> NI	<input checked="" type="checkbox"/> NA		
	S	U	NR/ NA	<b>Item:</b>			<b>F</b>
1.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Filtration (Ultra/RO)	_____	Part 750-2.8	<input type="checkbox"/>
2.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Microfiltration	_____	Part 750-2.8	<input type="checkbox"/>
3.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Activated carbon adsorption	_____	Part 750-2.8	<input type="checkbox"/>
4.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Nitrification	_____	Part 750-2.8	<input type="checkbox"/>
5.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Denitrification	_____	Part 750-2.8	<input type="checkbox"/>
6.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Ammonia stripping	_____	Part 750-2.8	<input type="checkbox"/>
7.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Phosphorus removal?	Plant currently meets load limit without chemical addition	Part 750-2.8	<input type="checkbox"/>
8.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Other (i.e. Mercury removal, Bag filters, etc.) (Specify):	_____	Part 750-2.8	<input type="checkbox"/>

Click Left Button to Clear Radio Button

**H. Disinfection:**

NI  NA

	S	U	NR/ NA	Item:		F
1.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Chlorination type (Gas/Liquid) (Dosage/feed pump settings)	_____	Part 750-2.8 <input type="checkbox"/>
2.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Chlorine monitoring (level)?	_____	Part 750-2.8 <input type="checkbox"/>
3.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Ultraviolet (UV) light (Setting)?	_____	Part 750-2.8 <input type="checkbox"/>
4.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Other (Specify):	_____	<input type="checkbox"/>

**I. Final Effluent:**

NI  NA

	S	U	NR/ NA	Item:		F
1.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Polishing pond (Odor/foam/solids/algae)	_____	Part 750-2.8 <input type="checkbox"/>
2.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Effluent quality (Odor/turbidity/color)	good clarity	Part 750-2.8 <input type="checkbox"/>
3.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Receiving water condition(Up/downstream)	Not Inspected, river partially frozen	Part 750-2.8 <input type="checkbox"/>
4.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Outfall sign at each discharge point?	per Operator and prior inspections	Part 750-1.12 <input type="checkbox"/>
5.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Other (Specify):	_____	<input type="checkbox"/>

**J. Sludge Handling:**

NI  NA

	S	U	NR/ NA	Item:		F
1.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Sludge disposal? (List name and loc. of disposal sites/hauler)	onsite drying beds/"reed" beds	Part 750-2.8 <input type="checkbox"/>
2.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Digestion functioning properly?	_____	Part 750-2.8 <input type="checkbox"/>
3.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Sludge pumps	portable pump and lines used if needed	Part 750-2.8 <input type="checkbox"/>
4.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Sludge Dewatering	as above	Part 750-2.8 <input type="checkbox"/>
5.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Maintenance of sludge pumps	_____	Part 750-2.8 <input type="checkbox"/>
6.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Records available for disposal practices?	septic tank pumpout records reviewed Oct. 2017, a few tanks are overdue	Part 750-2.5 <input type="checkbox"/>
7.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	Other (Specify):	O&M manual should be updated to include sludge profiling guidance	<input checked="" type="checkbox"/>

**K. Sampling Evaluation and Lab Information:**

NI  NA

	S	U	NR/ NA	Item:		F
1.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Written sampling plan? (If yes, are they following their plan)?	Routine sampling done 1st Wednesday/month, written on calendar	Part 750-2.5 <input type="checkbox"/>

Click Left Button to Clear Radio Button

2.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Need to modify sampling frequency/types? (Explain)	_____	Part 750-2.5	<input type="checkbox"/>
3.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Samples collected at specified locations?	Permit requires effluent sampling at v-notch weir	Part 750-2.5	<input type="checkbox"/>
4.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Adequate for representative sample?	_____	Part 750-2.5	<input type="checkbox"/>
5.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Automatic sampler used? (Condition)	metal pail should be replaced with cleanable plastic	Part 750-2.5	<input checked="" type="checkbox"/>
6.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Type of samples collected (Grab/composite)?	effluent grabs per permit	Part 750-2.5	<input type="checkbox"/>
7.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	If composite, minimum of 8 grab samples?	_____	Part 750-2.5	<input type="checkbox"/>
8.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Permittee ELAP certified? (If yes, provide ELAP certificate #)	_____	Part 750-2.5	<input type="checkbox"/>
9.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Is the commercial laboratory ELAP certified? (List lab name, address and ELAP cert. #)	Endyne Inc; Plattsburgh NY; # 11892	Part 750-2.5	<input type="checkbox"/>
10.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	EPA-approved testing procedures followed?	_____	Part 750-2.5	<input type="checkbox"/>
	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Testing done for all parameters as required?	_____	Part 750-2.5	<input type="checkbox"/>
11.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	WET (Whole Effluent Toxicity) testing?	_____	Part 750-2.5	<input type="checkbox"/>
12.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Instrumentation calibrated & maintained?	pH	Part 750-2.5	<input type="checkbox"/>
13.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Daily calibration, log books maintained?	pH	Part 750-2.5	<input type="checkbox"/>
14.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Lab supplies are not expired? (Date if expired)	buffers current through mid-2018	Part 750-2.5	<input type="checkbox"/>
15.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Are lab records retained at facility?	_____	Part 750-2.5	<input type="checkbox"/>
16.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Is process control testing performed? (Discuss target values)	yes, but D.O. values appear to be inaccurate, see comment section	Part 750-2.5	<input checked="" type="checkbox"/>
17.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	MLSS for day/week/month?	_____	Part 750-2.8	<input type="checkbox"/>
18.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	SVI for day/week/month?	_____	Part 750-2.5	<input type="checkbox"/>
19.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Microscopic analysis of MLSS?	_____	Part 750-2.5	<input type="checkbox"/>
20.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	5/30 minutes settleometer (Day/week/month)?	_____	Part 750-2.5	<input type="checkbox"/>
21.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Monitoring records kept minimum 5 years?	yes, per Operators; Not Inspected this date	Part750-2.5	<input type="checkbox"/>
22.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Flow records maintained (Influent/effluent)?	yes, but there are data discrepancies between monitoring sites	Part750-2.5	<input checked="" type="checkbox"/>
23.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Other (Specify)	Chief states he has provided OIT with written SOPs for daily duties		<input type="checkbox"/>

Click Left Button to Clear Radio Button

**L. Operation and Maintenance (Additional Info.):**

NI  NA

	S	U	NR/ NA	Item:			F
1.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	Preventive maintenance plan (Method)?	O&M manual is only source of guidance	Part750-2.5	<input checked="" type="checkbox"/>
2.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Records of maintenance/repair cost maintained (Method)?	notes kept in Monthly Operation Reports & daily logs, not searchable	Part750-2.5	<input checked="" type="checkbox"/>
3.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Spare parts inventory?	Operator is satisfied with inventory for plant	Part750-2.8	<input type="checkbox"/>
4.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	Current O&M manual?	O&M manual not updated for new (2013) aerators	Part750-2.8	<input checked="" type="checkbox"/>
5.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	O & M manual maintained?		Part750-2.5	<input type="checkbox"/>
6.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Organizational chart for O &M staff?	two staff responsible for Wastewater, and Water, also Highway duties	Part750-2.5	<input type="checkbox"/>
7.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	Alarm systems (List)?	autodialer at plant reports power outage only	Part750-2.8	<input type="checkbox"/>
8.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	Back-up power (Exercised)?	generator is exercised monthly but not under load	Part750-2.8	<input checked="" type="checkbox"/>
9.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Unapproved bypass during power failure (If any, date/corrective action)		Part750-2.8	<input type="checkbox"/>
10.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Written back-up power emergency plan?	Chief provided written guidance for OIT, Not Inspected this date	Part750-2.8	<input type="checkbox"/>
11.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	All required treatment units in service during back-up power use?		Part750-2.8	<input type="checkbox"/>
12.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Hydraulic/organic overloads?		Part750-2.8	<input type="checkbox"/>
13.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	Schedule for removing critical equipment from service for routine maintenance?		Part750-2.8	<input type="checkbox"/>
14.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Safety railings/gratings in place/good condition?		Part 750-2.8	<input type="checkbox"/>
15.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	Lights, ventilation operational (Wet wells)?	currently P.S.s have no lights and ventilation is inoperable	Part 750-2.8	<input checked="" type="checkbox"/>
16.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	As-built plans for collection sysm. /WWTP?	per Operator, for MHs and lines (not S.T.s), Not Inspected this date	Part750-2.5	<input type="checkbox"/>
17.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Other (Specify)			<input type="checkbox"/>

**M. Staffing / Personnel Information:**

NI  NA

	S	U	NR/ NA	Item:			F
1.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	Staffing adequate?	yes, through January 12, 2018, not after that?	Part 650	<input checked="" type="checkbox"/>
2.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Certification/grade adequate?	as above	Part 750-2.8 & Part 650	<input checked="" type="checkbox"/>
3.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Plant score and grade?	Grade 1, 26 points	Part 750-2.8 & Part 650	<input type="checkbox"/>

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4.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Chief operator name, Grade, Cert. #, Exp	Paul Mintz, Gr 1, # 13952, exp. 5/01/19; resignation effective 1/12/18	Part 750-2.8 & Part 650	<input type="checkbox"/>
5.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	Asst. operator Name, Grade, Cert. #, Exp.	Craig Walton, Gr. 1, # 10635, exp.? cert. not posted at plant	Part 750-2.8 & Part 650	<input checked="" type="checkbox"/>
6.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	WWTP responsible for collection system?	yes	Part 650	<input type="checkbox"/>
7.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Operators responsible for water supply?	yes	Part 650	<input type="checkbox"/>
8.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Is Chief Operator present at the WWTP as per required guideline?	Chief averaged 22 days/mo x 4 hrs/day Jan-Oct 2017	Part 650	<input checked="" type="checkbox"/>
9.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Is certified WWTP operator present at the plant as per required guideline?	Assistant avg'd 9 days/mo x 2 hrs/day Jan-Oct 2017	Part 650	<input checked="" type="checkbox"/>

**N. Fiscal:**  NI  NA

How sewer rates are assessed (Flat vs metering)? **flat rates have not changed in years per Operator, there are no meters**

How is the plant budget developed? **Budget is reportedly prepared by Town Supervisor, Plant operators usually not involved**

Asset Management Plan (AMP)? **There is no Asset Management Plan**  
AMP Prepared/Date?

**Compliance Status (Orders, Schedules, etc.):**  
\_\_\_\_\_  
\_\_\_\_\_

**Comments:**

**FLOW METERING**  
Discrepancies in flow numbers were found in late 2016 when comparing the Grove Rd metering pit for the two Towns (highest flows) with the influent pump station at the plant (intermediate flows) and the effluent v-notch/ultrasonic system (lowest flows). The operators reached out to the County Environmental Manager (Todd Hodgson, PE) to troubleshoot in Oct/Nov 2017; the 1991 effluent v-notch angle was found to be inaccurate (est. 0.8 gpm loss) and an estimated 1 gpm flow leak found around the weir plate. A replacement v-notch weir plate was received 12/26/17 and awaits suitable weather for installation.

**COLLECTION SYSTEM**  
There is no routine preventive collection system inspection program.

**PUMP STATION REHABILITATION**  
Suitable spare parts should be obtained as followup to the project.

- Photographs attached:** \_\_\_\_\_
- Attachments (graphs, diagrams, etc.):** \_\_\_\_\_
- DMR Issues:** \_\_\_\_\_
- SPRTRK Issues:** Chief plans to assist OIT in registering as notifier
- Net-DMR Issues:** Chief plans to train OIT in electronic reporting system

Tamara J. Venne, 12/28/17

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**Inspector's Signature / Date**

Click Left Button to Clear Radio Button

**Comments (additional page):**

(AUSABLE FORKS COMMUNITY WWTF Comprehensive SPDES Inspection 12/27/17)

**PROCESS CONTROL**

D.O. Meter is not reading reliable values during cold weather as reported on the Monthly Operation Report (Jan/Feb/Mar.2017 20+ mg/L effluent). Operator has tried replacing membranes and probe to no avail. Warm weather values are more critical but may not be reliable if meter values are suspect. Meter should be replaced.

**O & M**

Manual should be updated to reflect current type and management of lagoon aerators; guidance re frequency of sludge profiling; and new drying/reed bed management.

Plant Generator should be exercised under load.

**SAMPLING TECHNIQUE**

The rusty metal pail should be replaced with a clean plastic pail

**STAFFING**

Town must provide certification cards for the Chief and Assistant Operators that will be operating the POTW 1/13/18 onward. Insufficient certified operator coverage was provided July 2017.



## APPENDIX C: REFERENCES

**CERTIFICATION OF EXPERIENCE**

I, \_\_\_\_\_ HEREBY CERTIFY THAT (COMPANY \_\_\_\_\_  
\_\_\_\_\_ HAS PERFORMED THE FOLLOWING WORK WITHING THE LAST  
THREE YEARS **UNLESS SPECIFIED DIFFERENTLY IN THE SPECIFICATION:**

NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

-----  
NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

-----  
NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

-----  
NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

-----  
NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

-----  
NAMES OF BUSINESS: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AMOUNT OF CONTRACT: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ EMAIL ADDRESS: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

## **APPENDIX D: CONFLICT OF INTEREST STATEMENT**

## APPENDIX D: CONFLICT OF INTEREST STATEMENT

\_\_\_\_\_ (“Respondent”)

### Conflict of Interest Statement

The owner(s), corporate members or employees of [Respondent], shall derive any personal profit or gain, directly or indirectly, by reason of his or her participation with the [the Town of Lewis]. Each individual shall disclose to the [the Town of Lewis] any personal interest or direct relationship which he or she may have and shall refrain from participation in any decision making in related manners.

Any owner, corporate member or employee of [Respondent] who is an officer, board member, a committee member or staff member of a related organization shall identify his or her affiliation with such agency or agencies; further, in connection with any policy committee or board action specifically associated with [the Town of Lewis], he/she shall not participate in the decision affecting that entity and the decision must be made and/or ratified by the full board. At this time, I am a Board member, a committee member, or an employee of the following organizations/companies:

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

Now this is to certify that I, except as described below, am not now nor at any time during the past year have been:

- 1) A participant, directly or indirectly, in any arrangement, agreement, investment, or other activity with any vendor, supplier, or other party; doing business with the [the Town of Lewis] which has resulted or could result in person benefit to me.
- 2) A recipient, directly or indirectly, of any salary payments or loans or gifts of any kind or any free service or discounts or other fees from or on behalf of any person or organization engaged in any transaction with the [the Town].

Any exceptions to 1 or 2 above are stated below with a full description of the transactions and of the interest, whether direct or indirect, which I have (or have had during the past year) in the persons or organizations having transactions with the [the Town of Lewis].

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

**Respondent:** \_\_\_\_\_

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

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

**Printed name:** \_\_\_\_\_

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

**Telephone:** \_\_\_\_\_

## **APPENDIX E: CERTIFICATE OF AUTHORITY**

**CERTIFICATE OF AUTHORITY**

I, \_\_\_\_\_  
(Officer other than officer executing proposal documents)

certify that I am the \_\_\_\_\_ of the \_\_\_\_\_  
(Title) (Name of Contractor)

\_\_\_\_\_ a corporation, duly organized and in good standing under the  
\_\_\_\_\_  
(Law under which organized, e.g., the New York Business Corporation Law)

named in the foregoing agreement; that \_\_\_\_\_  
(Person executing proposal documents)

who signed said agreement on behalf of the Contractor was, at the time of execution,  
\_\_\_\_\_ of the Contractor; that said agreement was duly signed for  
(Title of such person)

and in behalf of said Contractor by authority of its Board of Directors, thereunto duly authorized, and that  
such authority is in full force and effect at the date hereof.

\_\_\_\_\_  
Signature Corporate Seal

STATE OF NEW YORK ) SS.:  
COUNTY OF ESSEX )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_  
\_\_\_\_\_ to me known, and known to me to be the \_\_\_\_\_  
(Title) of \_\_\_\_\_ the corporation described in  
and which executed the above certificate, who being by me duly sworn did depose and say that he, the said \_\_\_\_\_  
\_\_\_\_\_ resides at \_\_\_\_\_, and that he is \_\_\_\_\_  
\_\_\_\_\_ of said corporation and knows the corporate seal of the said corporation; that the  
seal affixed to the above certificate is such corporate seal and that it was so affixed by order of the Board of  
Directors of said corporation, and that he signed his name thereto by like order.

\_\_\_\_\_  
Notary Public County

**APPENDIX F: VENDOR RESPONSIBILITY QUESTIONNAIRE**

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

You have selected the For-Profit Non-Construction questionnaire which may be printed and completed in this format or, for your convenience, may be completed online using the New York State VendRep System.

**COMPLETION & CERTIFICATION**

The person(s) completing the questionnaire must be knowledgeable about the vendor's business and operations. An owner or officer must certify the questionnaire and the signature must be notarized.

**NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)**

The Vendor ID is a ten-digit identifier issued by New York State when the vendor is registered on the Statewide Vendor File. This number must now be included on the questionnaire. If the business entity has not obtained a Vendor ID, contact the IT Service Desk at [ITServiceDesk@osc.state.ny.us](mailto:ITServiceDesk@osc.state.ny.us) or call 866-370-4672.

**DEFINITIONS**

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at [www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf](http://www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf). These terms may not have their ordinary, common or traditional meanings. Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

**RESPONSES**

Every question must be answered. Each response must provide all relevant information which can be obtained within the limits of the law. However, information regarding a determination or finding made in error which was subsequently corrected is not required. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

**REPORTING ENTITY**

Each vendor must indicate if the questionnaire is filed on behalf of the entire Legal Business Entity or an Organizational Unit within or operating under the authority of the Legal Business Entity and having the same EIN. Generally, the Organizational Unit option may be appropriate for a vendor that meets the definition of "Reporting Entity" but due to the size and complexity of the Legal Business Entity, is best able to provide the required information for the Organizational Unit, while providing more limited information for other parts of the Legal Business Entity and Associated Entities.

**ASSOCIATED ENTITY**

An Associated Entity is one that owns or controls the Reporting Entity or any entity owned or controlled by the Reporting Entity. However, the term Associated Entity does not include "sibling organizations" (i.e., entities owned or controlled by a parent company that owns or controls the Reporting Entity), unless such sibling entity has a direct relationship with or impact on the Reporting Entity.

**STRUCTURE OF THE QUESTIONNAIRE**

The questionnaire is organized into eleven sections. Section I is to be completed for the Legal Business Entity. Section II requires the vendor to specify the Reporting Entity for the questionnaire. Section III refers to the individuals of the Reporting Entity, while Sections IV-VIII require information about the Reporting Entity. Section IX pertains to any Associated Entities, with one question about their Officials/Owners. Section X relates to disclosure under the Freedom of Information Law (FOIL). Section XI requires an authorized contact for the questionnaire information.



**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

<b>I. LEGAL BUSINESS ENTITY INFORMATION</b>			
<u>Legal Business Entity Name*</u>		<u>EIN</u>	
Address of the <u>Principal Place of Business</u> (street, city, state, zip code)		<u>New York State Vendor Identification Number</u>	
		Telephone ext.	Fax
Email		Website	
Additional <u>Legal Business Entity</u> Identities: If applicable, list any other <u>DBA</u> , <u>Trade Name</u> , <u>Former Name</u> , Other Identity, or <u>EIN</u> used in the last five (5) years and the status (active or inactive).			
Type	Name	EIN	Status
1.0 <u>Legal Business Entity</u> Type – Check appropriate box and provide additional information:			
<input type="checkbox"/> <u>Corporation</u> (including <u>PC</u> )		Date of Incorporation	
<input type="checkbox"/> <u>Limited Liability Company</u> ( <u>LLC</u> or <u>PLLC</u> )		Date of Organization	
<input type="checkbox"/> <u>Partnership</u> (including <u>LLP</u> , <u>LP</u> or <u>General</u> )		Date of Registration or Establishment	
<input type="checkbox"/> <u>Sole Proprietor</u>		How many years in business?	
<input type="checkbox"/> Other		Date Established	
If Other, explain:			
1.1 Was the <u>Legal Business Entity</u> formed or incorporated in New York State?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If 'No,' indicate jurisdiction where <u>Legal Business Entity</u> was formed or incorporated and attach a <u>Certificate of Good Standing</u> from the applicable jurisdiction or provide an explanation if a <u>Certificate of Good Standing</u> is not available.			
<input type="checkbox"/> United States State _____			
<input type="checkbox"/> Other Country _____			
Explain, if not available:			
1.2 Is the <u>Legal Business Entity</u> publicly traded?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide <u>CIK Code</u> or Ticker Symbol			
1.3 Does the <u>Legal Business Entity</u> have a <u>DUNS</u> Number?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," Enter <u>DUNS</u> Number			

\*All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," which can be found at [www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf](http://www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf).

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<b>I. LEGAL BUSINESS ENTITY INFORMATION</b>		
1.4 If the <u>Legal Business Entity's Principal Place of Business</u> is not in New York State, does the <u>Legal Business Entity</u> maintain an office in New York State? (Select "N/A," if <u>Principal Place of Business</u> is in New York State.)	<input type="checkbox"/> Yes	<input type="checkbox"/> No  <input type="checkbox"/> N/A
If "Yes," provide the address and telephone number for one office located in New York State.		
1.5 Is the <u>Legal Business Entity</u> a New York State certified <u>Minority-Owned Business Enterprise (MBE)</u> , <u>Women-Owned Business Enterprise (WBE)</u> , <u>New York State Small Business (SB)</u> or a federally certified <u>Disadvantaged Business Enterprise (DBE)</u> ? If "Yes," check all that apply: <input type="checkbox"/> New York State certified <u>Minority-Owned Business Enterprise (MBE)</u> <input type="checkbox"/> New York State certified <u>Women-Owned Business Enterprise (WBE)</u> <input type="checkbox"/> <u>New York State Small Business (SB)</u> <input type="checkbox"/> Federally certified <u>Disadvantaged Business Enterprise (DBE)</u>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
1.6 Identify <u>Officials</u> and <u>Principal Owners</u> , if applicable. For each person, include name, title and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional.		
Name	Title	Percentage Ownership <i>(Enter 0% if not applicable)</i>

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<b>II. REPORTING ENTITY INFORMATION</b>	
<p>2.0 The <u>Reporting Entity</u> for this questionnaire is:</p> <p>Note: Select only one.</p> <p><input type="checkbox"/> <u>Legal Business Entity</u></p> <p><i>Note: If selecting this option, "Reporting Entity" refers to the entire Legal Business Entity for the remainder of the questionnaire. (SKIP THE REMAINDER OF SECTION II AND PROCEED WITH SECTION III.)</i></p> <p><input type="checkbox"/> <u>Organizational Unit within and operating under the authority of the Legal Business Entity</u></p> <p>SEE DEFINITIONS OF "<u>REPORTING ENTITY</u>" AND "<u>ORGANIZATIONAL UNIT</u>" FOR ADDITIONAL INFORMATION ON CRITERIA TO QUALIFY FOR THIS SELECTION.</p> <p><i>Note: If selecting this option, "Reporting Entity" refers to the Organizational Unit within the Legal Business Entity for the remainder of the questionnaire. (COMPLETE THE REMAINDER OF SECTION II AND ALL REMAINING SECTIONS OF THIS QUESTIONNAIRE.)</i></p>	
<b>IDENTIFYING INFORMATION</b>	
a) <u>Reporting Entity</u> Name	
Address of the <u>Primary Place of Business</u> (street, city, state, zip code)	Telephone  ext.
b) Describe the relationship of the <u>Reporting Entity</u> to the <u>Legal Business Entity</u>	
c) Attach an <u>organizational chart</u>	
d) Does the Reporting Entity have a <u>DUNS</u> Number?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," enter <u>DUNS</u> Number	
e) Identify the designated manager(s) responsible for the business of the <u>Reporting Entity</u> . <i>For each person, include name and title. Attach additional pages if necessary.</i>	
Name	Title

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**INSTRUCTIONS FOR SECTIONS III THROUGH VII**

For each "Yes," provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). For each "Other," provide an explanation which provides the basis for not definitively responding "Yes" or "No." Provide the explanation at the end of the section or attach additional sheets with numbered responses, including the Reporting Entity name at the top of any attached pages.

<b>III. LEADERSHIP INTEGRITY</b>	
<i>Within the past five (5) years, has any current or former reporting entity official or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the reporting entity with any government entity been:</i>	
3.0 <u>Sanctioned</u> relative to any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.1 <u>Suspended, debarred, or disqualified</u> from any government contracting process?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.2 The subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
For each "Yes" or "Other" explain:	

<b>IV. INTEGRITY – CONTRACT BIDDING</b>	
<i>Within the past five (5) years, has the reporting entity:</i>	
4.0 Been <u>suspended</u> or <u>debarred</u> from any <u>government contracting process</u> or been <u>disqualified</u> on any government procurement, permit, license, concession, franchise or lease, including, but not limited to, <u>debarment</u> for a violation of New York State Workers' Compensation or Prevailing Wage laws or New York State Procurement Lobbying Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.1 Been subject to a denial or revocation of a government prequalification?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.2 Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.3 Had a low bid rejected on a <u>government contract</u> for failure to <u>make good faith efforts</u> on any <u>Minority-Owned Business Enterprise, Women-Owned Business Enterprise or Disadvantaged Business Enterprise goal or statutory affirmative action requirements</u> on a previously held contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.4 Agreed to a voluntary exclusion from bidding/contracting with a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.5 Initiated a request to withdraw a bid submitted to a <u>government entity</u> in lieu of responding to an information request or subsequent to a formal request to appear before the <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each "Yes," explain:	

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<b>V. INTEGRITY – CONTRACT AWARD</b>	
<i>Within the past five (5) years, has the reporting entity:</i>	
5.0 Been <u>suspended</u> , cancelled or <u>terminated for cause</u> on any <u>government contract</u> including, but not limited to, a <u>non-responsibility finding</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5.1 Been subject to an <u>administrative proceeding</u> or civil action seeking specific performance or restitution in connection with any <u>government contract</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5.2 Entered into a formal monitoring agreement as a condition of a contract award from a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each “Yes,” explain:	

<b>VI. CERTIFICATIONS/LICENSES</b>	
<i>Within the past five (5) years, has the reporting entity:</i>	
6.0 Had a revocation, <u>suspension</u> or <u>disbarment</u> of any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or federal certification of <u>Disadvantaged Business Enterprise</u> status for other than a change of ownership?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each “Yes,” explain:	

<b>VII. LEGAL PROCEEDINGS</b>	
<i>Within the past five (5) years, has the reporting entity:</i>	
7.0 Been the subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.1 Been the subject of an indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as <u>serious or willful</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.3 Had a <u>government entity</u> find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any <u>government entity</u> involving a violation of federal, state or local environmental laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.5 Other than previously disclosed: a) Been subject to fines or penalties imposed by <u>government entities</u> which in the aggregate total \$25,000 or more; or b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each “Yes,” explain:	

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<b>VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY</b>	
<b>8.0</b> Within the past five (5) years, has the <u>Reporting Entity</u> received any <u>formal unsatisfactory performance assessment(s)</u> from any <u>government entity</u> on any contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
<b>8.1</b> Within the past five (5) years, has the <u>Reporting Entity</u> had any <u>liquidated damages</u> assessed over \$25,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
<b>8.2</b> Within the past five (5) years, have any <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$25,000 been filed against the <u>Reporting Entity</u> which remain undischarged?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, the Lien holder or Claimant's name(s), the amount of the <u>lien(s)</u> and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
<b>8.3</b> In the last seven (7) years, has the <u>Reporting Entity</u> initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "Initiated," "Pending" or "Closed." Provide answer below or attach additional sheets with numbered responses.	
<b>8.4</b> During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any tax returns required by <u>federal</u> , state or local tax laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the <u>Reporting Entity</u> failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses.	
<b>8.5</b> During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any New York State unemployment insurance returns?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the years the <u>Reporting Entity</u> failed to file/pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
<b>8.6</b> During the past three (3) years, has the <u>Reporting Entity</u> had any <u>government audit(s)</u> completed?	<input type="checkbox"/> Yes <input type="checkbox"/> No
a) If "Yes," did any audit of the <u>Reporting Entity</u> identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any <u>material disallowance</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" to 8.6 a), provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

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<p><b>IX. ASSOCIATED ENTITIES</b></p> <p><i>This section pertains to any entity(ies) that either controls or is controlled by the reporting entity. (See definition of “associated entity” for additional information to complete this section.)</i></p>	
<p>9.0 Does the <u>Reporting Entity</u> have any <u>Associated Entities</u>?</p> <p>Note: All questions in this section must be answered if the <u>Reporting Entity</u> is either:</p> <ul style="list-style-type: none"> <li>- An <u>Organizational Unit</u>; or</li> <li>- The entire <u>Legal Business Entity</u> which controls, or is controlled by, any other entity(ies).</li> </ul> <p>If “No,” SKIP THE REMAINDER OF SECTION IX AND PROCEED WITH SECTION X.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>9.1 Within the past five (5) years, has any <u>Associated Entity Official</u> or <u>Principal Owner</u> been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for:</p> <ul style="list-style-type: none"> <li>a) Any business-related activity; or</li> <li>b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>If “Yes,” provide an explanation of the issue(s), the individual involved, his/her title and role in the <u>Associated Entity</u>, his/her relationship to the <u>Reporting Entity</u>, relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s).</p>	
<p>9.2 Does any <u>Associated Entity</u> have any currently undischarged <u>federal</u>, New York State, New York City or New York local government <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$50,000?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>If “Yes,” provide an explanation of the issue(s), identify the <u>Associated Entity</u>’s name(s), <u>EIN</u>(s), primary business activity, relationship to the <u>Reporting Entity</u>, relevant dates, the Lien holder or Claimant’s name(s), the amount of the <u>lien</u>(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.</p>	
<p>9.3 Within the past five (5) years, has any <u>Associated Entity</u>:</p>	
<p>a) Been <u>disqualified</u>, <u>suspended</u> or <u>debarred</u> from any <u>federal</u>, New York State, New York City or other New York local <u>government contracting process</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>b) Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by any <u>federal</u>, New York State, New York City, or New York local <u>government entity</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>c) Been <u>suspended</u>, <u>cancelled</u> or <u>terminated for cause</u> (including for <u>non-responsibility</u>) on any <u>federal</u>, New York State, New York City or New York local <u>government contract</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>d) Been the subject of an <u>investigation</u>, whether open or closed, by any <u>federal</u>, New York State, New York City, or New York local <u>government entity</u> for a civil or criminal violation with a penalty in excess of \$500,000?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>e) Been the subject of an indictment, grant of immunity, <u>judgment</u>, or conviction (including entering into a plea bargain) for conduct constituting a crime?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>f) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>federal</u>, New York State, New York City, or New York local <u>government entity</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>g) Initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>For each “Yes,” provide an explanation of the issue(s), identify the <u>Associated Entity</u>’s name(s), <u>EIN</u>(s), primary business activity, relationship to the <u>Reporting Entity</u>, relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.</p>	

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**X. FREEDOM OF INFORMATION LAW (FOIL)**

<p>10. Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL).                  Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>If "Yes," indicate the question number(s) and explain the basis for the claim.</p>	

**XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE**

<b>Name</b>	<b>Telephone</b>	<b>Fax</b>
	ext.	
<b>Title</b>	<b>Email</b>	



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**Certification**

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State government entities (including the Office of the State Comptroller (OSC)) in making responsibility determinations regarding award or approval of a contract or subcontract and that such government entities will rely on information disclosed in the questionnaire in making responsibility determinations; (2) acknowledges that the New York State government entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (3) acknowledges that intentional submission of false or misleading information may result in criminal penalties under State and/or Federal Law, as well as a finding of non-responsibility, contract suspension or contract termination.

**The undersigned certifies that he/she:**

- is knowledgeable about the submitting Business Entity’s business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Business Entity’s responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State government entities will rely on the information disclosed in the questionnaire when entering into a contract with the Business Entity; and
- is under an obligation to update the information provided herein to include any material changes to the Business Entity’s responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State government entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Official \_\_\_\_\_

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

Title \_\_\_\_\_

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_;

\_\_\_\_\_ Notary Public

**CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT**

As a result of the Iran Divestment Act of 2012 (the "Act"), Chapter 1 of the 2012 Laws of New York, a new provision has been added to State Finance Law (SFL) § 165-a and New York General Municipal Law § 103-g, both effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law) (the "Prohibited Entities List"). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date at which time it will be posted on the OGS website.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/Contractor and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the OGS website, that to the best of its knowledge and belief, that each Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to SFL § 165-a(3)(b).

Additionally, Bidder/Contractor is advised that once the Prohibited Entities List is posted on the OGS Website, any Bidder/Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the County shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

The County reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a contract and subsequently appears on the Prohibited Entities List.

I, \_\_\_\_\_, being duly sworn, deposes and says that he/she is the \_\_\_\_\_ of the \_\_\_\_\_ Corporation and that neither the Bidder/Contractor nor any proposed subcontractor is identified on the Prohibited Entities List.

\_\_\_\_\_  
SIGNED

SWORN to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

**NON-COLLUSIVE BIDDING CERTIFICATION**

1. By submission of this bid, the undersigned bidder and each person signing on behalf of such bidder certifies and in the case of a joint bid each party thereto certifies as to its own organization — UNDER PENALTY OF PERJURY, that to the best of the undersigned’s knowledge and belief:

- (a) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- (b) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
- (c) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

2. The undersigned acknowledges and agrees that a bid shall not be considered for award nor shall any award be made where any of the above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where one or more of the above has/have not been complied with, the bid shall not be considered for award nor shall any award be made unless the political subdivision, public department, agency or official thereof to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

3. The undersigned also acknowledges and agrees that the fact that a bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of paragraph 1 above.

4. The undersigned further acknowledges and agrees that any bid hereafter made to any political subdivision of the state or any public department, agency or official thereof by a bidder which is a corporation or a limited liability company for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such bid contains the certification referred to in paragraph 1 of this certificate, shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation or limited liability company.

Name of Bidder: \_\_\_\_\_  
(print full legal name)

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

Name of Person Signing Certificate: \_\_\_\_\_  
(print full legal name of signer)

Bidder is (check one):  an individual,  a limited liability partnership,  a limited liability company,  
 other entity (specify): \_\_\_\_\_

## **APPENDIX G: W-9 FORM**

# Request for Taxpayer Identification Number and Certification

**Give Form to the  
requester. Do not  
send to the IRS.**

Print or type  
See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification: check only <b>one</b> of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <b>Note.</b> For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
6 City, state, and ZIP code	
7 List account number(s) here (optional)	

<b>Part I Taxpayer Identification Number (TIN)</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="11" style="text-align: center;">Social security number</td> </tr> <tr> <td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td> </tr> <tr> <td colspan="11" style="text-align: center;">or</td> </tr> <tr> <td colspan="11" style="text-align: center;">Employer identification number</td> </tr> <tr> <td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td><td style="width: 25%;"> </td> </tr> </table>	Social security number																						or											Employer identification number																					
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Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3.  <b>Note.</b> If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.																																																								

<b>Part II Certification</b>
Under penalties of perjury, I certify that:
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and 3. I am a U.S. citizen or other U.S. person (defined below); and 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.
<b>Certification instructions.</b> You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

**Note.** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

## What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; do not leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note. ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

**Line 2**

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

**Line 3**

Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

**Limited Liability Company (LLC).** If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

**Line 4, Exemptions**

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in line 4 any code(s) that may apply to you.

**Exempt payee code.**

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note.** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

**Line 5**

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

**Line 6**

Enter your city, state, and ZIP code.

**Part I. Taxpayer Identification Number (TIN)**

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

**Part II. Certification**

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code* earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

1. **Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.
2. **Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.
3. **Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.
4. **Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).
5. **Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor <sup>3</sup>
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 2.

\*Note. Grantor also must provide a Form W-9 to trustee of trust.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records from Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 1-877-IDTHEFT (1-877-438-4338).

Visit [IRS.gov](http://IRS.gov) to learn more about identity theft and how to reduce your risk.

**Privacy Act Notice**

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.



## **APPENDIX H: NON-COLLUSION AFFIDAVIT**

NON-COLLUSION AFFIDAVIT

The undersigned bidder or agent, being duly sworn on oath, says that he/she has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to include anyone to refrain from bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding.

He/She further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee gift, commission or thing of value on account of such sale.

OATH AND AFFIRMATION

I HEREBY AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FACTS AND INFORMATION CONTAINED IN THE FOREGOING BID FOR PUBLIC WORKS ARE TRUE AND CORRECT.

Dated this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Name of Organization)

\_\_\_\_\_  
(Title of Person Signing)

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

ACKNOWLEDGEMENT

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public, personally appeared the above named and swore that the statements contained in the foregoing document are true and correct.

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

\_\_\_\_\_  
Notary Public Signature

My Commission Expires: \_\_\_\_\_

## **APPENDIX I: IRAN DIVESTMENT ACT COMPLIANCE**

## IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act’s effective date, at which time it will be posted on the OGS website.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor is advised that once the list is posted on the OGS website, any Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to the solicitation, must certify at the time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract, should the New York State Education Department (AGENCY) receive information that a person is in violation of the above-referenced certification, AGENCY will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then AGENCY shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

AGENCY reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

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

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

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

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

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

**APPENDIX J: <INTENTIONALLY LEFT BLANK>**

## **APPENDIX K: DELIVERABLES TABLE**

DELIVERABLES	LUMP SUM PROPOSED:	HOURS OF LABOR:
<b>GENERAL REQUIREMENTS</b>		
Task 1) Project Schedule		
Task 2) Project Management & Coordination Meetings ( <i>incl. MILEAGE</i> )		
Task 3) Funding Agency Reporting		
<b>FIELD INVESTIGATIONS</b>		
Task 4) Provide survey & aerial mapping of the project area.		
Task 5) Investigate and document the WWTP facility and any ancillary utilities.		
<b>ENGINEERING REPORT</b>		
Task 6) Compile all existing WWTP facility data into a single document.		
Task 7) Provide NYS EFC & NYS DEC compliant Engineering Report.		
<b>SURVEY &amp; MAPPING DELIVERY</b>		
Task 8) Deliver to Town all Survey, Mapping & GIS data in a physical format (3 hard copies of full-size plans) and a digital format (renderable format to be defined to Respondent) for purposes of project planning.		
<b>REIMBURSABLES</b>		
<i>Task XX) TBA</i>		

**APPENDIX L: DRAFT FORM OF CONTRACT (EJCDC)**



This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

**SHORT FORM OF AGREEMENT  
BETWEEN OWNER AND CONSULTANT  
FOR  
PROFESSIONAL SERVICES**

Prepared by



and

Issued and Published Jointly by



AMERICAN COUNCIL OF CONSULTANTING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL CONSULTANTS

PROFESSIONAL CONSULTANTS IN PRIVATE PRACTICE  
*A Practice Division of the*  
NATIONAL SOCIETY OF PROFESSIONAL CONSULTANTS

This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (EJCDC C-700, 2007 Edition) of the Consultants Joint Contract Documents Committee. Their provisions are interrelated, and a change in one may necessitate a change in the other.

### **SPECIAL NOTE ON USE OF THIS FORM**

This abbreviated Agreement form is intended for use only for professional services of limited scope and complexity. It does not address the full range of issues of importance on most projects. In most cases, Owner and Consultant will be better served by the Standard Form of Agreement Between Owner and Consultant for Professional Services (EJCDC E-500, 2008 Edition), or one of the several special purpose EJCDC professional services agreement forms.

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(703) 684-2882  
[www.nspe.org](http://www.nspe.org)

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1015 15th Street N.W., Washington, DC 20005  
(202) 347-7474  
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American Society of Civil Consultants  
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Associated General Contractors of America  
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SHORT FORM OF AGREEMENT  
BETWEEN OWNER AND CONSULTANT  
FOR  
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of \_\_\_\_\_ TBA \_\_\_\_\_ (“Effective Date”) between  
\_\_\_\_\_ THE TOWN OF JAY, NY \_\_\_\_\_ (“Owner”) and  
\_\_\_\_\_ TBA \_\_\_\_\_ (“Consultant”).

Owner's Project, of which Consultant's services under this Agreement are a part, is generally identified as follows:

\_\_\_\_\_ TOWN OF JAY WWTP INVESTIGATION & REPORT \_\_\_\_\_ (“Project”).

Consultant’s Services under this Agreement are generally identified as follows:

**CONDUCT AN INVESTIGATION AND PROVIDE A REPORT TO STATUS OF THE TREATMENT PLANT AND REQUIREMENTS FOR IMPLEMENTING DISINFECTION PROCESSES INTO THE EXISTING TREATMENT WORKS. ALSO INCLUDE ANY SUGGESTED ALTERNATIVES FOR TREATMENT PLANT UPGRADES. REPORT MUST BE ACCEPTABLE PER FUNDING AGENCIES CURRENT REQUIREMENTS.**

---

Owner and Consultant further agree as follows:

1.01 *Basic Agreement and Period of Service*

- A. Consultant shall provide, or cause to be provided, the services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Consultant shall furnish services in addition to those set forth above. Owner shall pay Consultant for its services as set forth in **Paragraphs 7.01 and 7.02.**
- B. Consultant shall complete its services within a reasonable time, or within the following specific time period: **The term of this agreement shall commence on July 1<sup>st</sup>, 2019 through May 31<sup>st</sup>, 2020, time being of the essence.**
- ~~C. If the Project includes construction-related professional services, then Consultant's time for completion of services is conditioned on the time for Owner and its contractors to complete construction not exceeding two (2) months. If the actual time to complete construction exceeds the number of months indicated, then Consultant's period of service and its total compensation shall be appropriately adjusted.~~

## 2.01 *Payment Procedures*

- A. *Invoices*: Consultant shall prepare invoices in accordance with **the Town Standard Terms & Conditions, included in Appendix 2 and Exhibit C**. Engineer shall submit its invoices to Owner on a monthly basis **prior to the Owners Town Board meeting for invoice approval, which is listed for public knowledge**, then the amounts due Consultant will be increased at the rate of 1% per month ~~(or the maximum rate of interest permitted by law, if less)~~ from said thirtieth day. **The Town Board meets on the second Tuesday of each month.** In addition, Consultant may, after giving ~~seven~~ **thirty (30) days** written notice to Owner, suspend services under this Agreement until Consultant has been paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Consultant for any such suspension. Payments will be credited first to interest and then to principal. **Exceptions to this paragraph apply when the Consultant fails to provide funding agency required reports and documents that are complete and on time; if these reports are not supplied as required and further specified in the Attachments hereto, the Owner reserves the right to withhold payment without penalty by the Consultant.**

## 3.01 *Termination*

- A. The obligation to continue performance under this Agreement may be terminated:
1. For cause,
    - a. By either party upon **thirty (30) days** written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Consultant for its services is a substantial failure to perform and a basis for termination.
    - b. By Consultant:
      - 1) upon **seven (7) days** written notice if Owner demands that Consultant furnish or perform services contrary to Consultant's responsibilities as a licensed professional; or
      - 2) upon **seven (7) days** written notice if the Consultant's services for the Project are delayed for more than ninety (90) days for reasons beyond Consultant's control.
      - 3) Consultant will have no liability to Owner on account of such termination.
      - 4) **In the event of such termination, Engineer is still liable to provide copies of any project deliverables, such as drawings, specifications, mapping and any other developed Work that the Owner has paid for in the period of performance.**
    - c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under **Paragraph 3.01.A.1.a** if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than **thirty (30)**

**days** of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such **thirty (30) day** period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, **sixty (60) days** after the date of receipt of the notice.

2. For convenience, by Owner effective upon Consultant's receipt of written notice from Owner.

B. The terminating party under **Paragraph 3.01.A** may set the effective date of termination at a time up to **thirty (30) days** later than otherwise provided to allow Consultant to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

C. In the event of any termination under **Paragraph 3.01**, Consultant will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination.

#### 4.01 *Successors, Assigns, and Beneficiaries*

A. Owner and Consultant are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Consultant (and to the extent permitted by **Paragraph 4.01.B** the assigns of Owner and Consultant) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Consultant may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Consultant to any contractor, subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Consultant and not for the benefit of any other party.

#### ~~5.01 *Liquidated Damages*~~

~~A. In accordance with **Section 316-a of Article 15-A and 5 NYCRR §142.13**, if it has been determined by the Recipient or EFC that the Contractor has willfully and intentionally failed to comply with the MWBE participation goals, the Consultant shall be obligated to pay to Owner liquidated damages or other appropriate damages, as specified herein and as determined by the Owner or Funding Agency. Liquidated damages shall be calculated as an amount not to exceed the difference between:~~

- ~~1. All sums identified for payment to MWBEs had the Consultant achieved the approved MWBE participation goals; and,~~
- ~~2. All sums actually paid to MWBEs for work performed or materials supplied under this Contract.~~

~~B. The Owner reserve the right to impose a lesser amount of liquidated damages than the amount calculated above based on the circumstances surrounding the Consultant's noncompliance. In the event a determination has been made by the Owner which requires the payment of damages identified herein and such identified sums have not been withheld, Consultant shall pay such damages to the Owner within **sixty (60) days** after they are assessed unless prior to the expiration of such **sixtieth (60) day**, the Consultant has filed a complaint with the Funding Agencies' Civil Rights/ Division of Minority and Women's Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the damages shall be payable if the Director of Funding Agency renders a decision in favor of the Owner.~~

#### 6.01 *General Considerations*

- A. The standard of care for all professional Consulting and related services performed or furnished by Consultant under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant's services. Subject to the foregoing standard of care, Consultant and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- B. Consultant shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall Consultant have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a contractor to comply with laws and regulations applicable to such contractor's furnishing and performing of its work.
- C. This Agreement is to be governed by the law of the state or jurisdiction in which the Project is located: **TOWN OF JAY, ESSEX COUNTY, NEW YORK, and any and all disputes shall be brought to the Essex County Supreme Court, Essex County, NY.**
  - a. Engineer and Owner shall comply with applicable Laws and Regulations.
  - b. Engineer shall comply with any and all policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in **Paragraph 6.01.A**, and to the extent compliance is not inconsistent with professional practice requirements.
    - 1) Articles 8 & 9 NYS Labor Law: Public Works Building & Service Contracts

2) Section 220-f of NYS Labor Law: International Boycotts

3) Debarment/Suspension:

(i) Exec. Order 12549 & 12689

(ii) 42 USC ss 1320a-7b(f)

4) HIPA Act of 1996

D. Consultant neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor. Consultant is not responsible for variations between actual construction bids or costs and Consultant's opinions or estimates regarding construction costs.

E. Consultant shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Consultant's own employees) at the Project site or otherwise furnishing or performing any construction work; or for any decision made regarding the construction contract requirements, or any application, interpretation, or clarification of the construction contract other than those made by Consultant.

F. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Consultants Joint Contract Documents Committee (EJCDC C-700, 2007 Edition) unless the parties agree otherwise.

G. All Documents are instruments of service, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed.

1. The Consultant is to maintain all books, documents, papers, account records and other evidence pertaining to this work and to make such materials available at their respective offices at all reasonable times during the agreement and **for a period up to six (6) years from the date of final payment under the agreement.**

2. If Engineer is required to prepare or furnish Drawings and/or Specifications under this Agreement, Engineer shall deliver to Owner at least **two (2)** original printed record versions of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations, and further provide electronic copies (e.g., PDF.) upon completion of the project and upon payment in full to the Engineer.

3. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project. Engineer grants Owner a limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner

or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties. **THIS PROVISION SHALL NOT APPLY TO SURVEY AND MAPPING PRODUCTS THAT WILL REMAIN THE PROPERTY OF THE OWNER AT PROJECT COMPLETION.**

- H. To the fullest extent permitted by law, Owner and Consultant (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Owners Liability to Consultant under this Agreement shall be limited to the total amount of compensation received by Consultant, ~~whichever is greater~~.
- I. The parties acknowledge that Consultant's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq., or radioactive materials). If Consultant or any other party encounters a Hazardous Environmental Condition, Consultant may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
- J. Owner and Consultant agree to negotiate each dispute between them in good faith during the **thirty (30) days** after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.

#### 7.01 *Total Agreement*

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and Consultant and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.



## 8.01 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver:* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims:* To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.
- F. *Discrimination Prohibited:* The services to be furnished and rendered under this agreement by the Consultant shall be available to any and all residents of Essex County without regard to race, color, creed, sex, religion, national or ethnic origin, handicap, or source of payment; and under no circumstances shall a resident's financial ability to pay for the services provided be considered unless such consideration is allowed by State and/or Federal law, rule, or regulation.
- G. *Non-Discrimination in Employment:* The consultant will not discriminate against any employee or applicant for employment because of race, color, creed, sex, religion, national or ethnic origin, disability, or marital status. In the event that this is a contract to be performed in whole or in part within the State of New York for (a) the construction, alteration or repair of any public building or public work, (b) for the manufacture, sale of distribution of materials, equipment of supplies, (c) for building service, the Consultant agrees that neither it nor its subcontractors shall, by any race, color, creed, sex, religion, national or ethnic origin, handicap, or marital status:
  - a. Discriminate in hiring against any citizen who is qualified and available to perform the work; or
  - b. Discriminate against or intimidate any employee hired for the performance of work under the contract.

## 9.01 *Basis of Payment—Hourly Rates Plus Reimbursable Expenses*

- A. Using the procedures set forth in **Paragraph 2.01**, Owner shall pay Consultant as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Consultant's employees times standard hourly rates for each applicable billing class for all services performed on the Project, plus reimbursable expenses and Consultant's consultants' charges, if any.
2. Consultant's Standard Hourly Rates: based on Request for Proposal
3. The total compensation for services and reimbursable expenses is estimated to be \$            (TBA).

10.01 *Additional Services:* For additional services of Consultant's employees engaged directly on the Project, Owner shall pay Consultant an amount equal to the cumulative hours charged to the Project by each class of Consultant's employees times standard hourly rates for each applicable billing class; plus reimbursable expenses and Consultant's consultants' charges, if any. Consultant's standard hourly rates are attached as **Appendix 1**.

DRAFT

**Attachments:**

- 1. Appendix 1, Consultant's Standard Hourly Rates**
- 2. Appendix 2, Standard Clauses for Town Contracts**
- 3. Appendix 3, Funding Agency Program Requirements**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER:

By: **HON. ARCHIE DEPO** \_\_\_\_\_

Title: **TOWN SUPERVISOR** \_\_\_\_\_

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

CONSULTANT:

By: **TBA** \_\_\_\_\_

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

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

Consultant License or Firm's  
Certificate Number: \_\_\_\_\_

State of: \_\_\_\_\_

Address for giving notices:

**Town of Jay** \_\_\_\_\_

**POB 730** \_\_\_\_\_

**Ausable Forks, NY 12912** \_\_\_\_\_

\_\_\_\_\_

Address for giving notices:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This is **Appendix 1, Consultant's Standard Hourly Rates**, referred to in and part of the Short Form of Agreement between Owner and Consultant for Professional Services dated \_\_\_\_\_, \_\_\_\_\_.

**Consultant's Standard Hourly Rates**

---

A. *Standard Hourly Rates:*

1. Standard Hourly Rates are set forth in this **Appendix 1** and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in **Paragraphs 7.01 and 7.02**, and are subject to annual review and adjustment.

B. *Schedule of Hourly Rates:*

Hourly rates for services performed on or after the Effective Date are:

Billing Class VIII	\$ _____/hour
Billing Class VII	_____/hour
Billing Class VI	_____/hour
Billing Class V	_____/hour
Billing Class IV	_____/hour
Billing Class III	_____/hour
Billing Class II	_____/hour
Billing Class I	_____/hour
Support Staff	_____/hour