ADDENDUM NO. 1

Project Name: Water System Upgrades

Contract No. 1 – General Construction

Town of Minerva, NY

MJ Project No: 1075.10

Addendum Date: June 7, 2023

To: All Contract Bidders of Record

This addendum forms a part of the Contract Documents. All contract bidders must acknowledge receipt of this Addendum in the space provided on the Bid Form. Failure to do so may subject the bidder to disqualification.

CHANGES TO FUNDING AGENCY REQUIREMENTS

1. In addition to this project being partially funded through a federal Community Development Block Grant, this project will also be partially funded through the NYS Environmental Facilities Corporation (EFC). A copy of the EFC document, "Mandatory State Revolving Fund Terms and Conditions for Contracts Funded with the NYS Clean Water State Revolving Fund or Drinking Water State Revolving Fund" is attached to this Addendum. This document contains guidance and requirements, based on contract value, to comply with EFC requirements for Equal Employment Opportunity (EEO) and Minority & Women Business Enterprise (MWBE) Programs; Requirement of the Federal Davis Bacon Related Acts (DBRA); Restrictions on Lobbying; American Iron and Steel Requirements; Required Terms for Project Contracts and Subcontracts; and Required Forms. The Lobbying Certification contained within this document shall be submitted at the time of bid. The EFC MWBE Utilization Plan and AIS Contractor's Certification shall be submitted prior to Contract award.

CHANGES TO SECTION 004100 - BID FORM FOR CONSTRUCTION CONTRACT

- 1. Article 2 Attachments to This Bid, Section 2.01, Add the following items after Item G.:
 - H. Lobbying Certification (Contained in the attached Mandatory State Revolving Fund Terms and Conditions document)
 - I. Iran Divestment Act Certification (Attached to this Addendum)
 - J. Sexual Harassment Certification (Attached to this Addendum)
 - K. New York State Vendor Responsibility Questionnaire For-Profit Construction (CCA-2) (Attached to this Addendum)

CHANGES TO ATTACHMENT A – BID SUMMARY FORM

- 1. Base Bid, Item 4A Asphalt Pavement Removal, Strike out the quantity 110 CY and write in the quantity 220 CY.
- 2. Add Alternate C, Item 18A Asphalt Pavement Replacement, Strike out the quantity 155 TON and write in the quantity 420 TON.

CHANGES TO SECTION 012200 – UNIT PRICES

- 1. Part 3 Execution, 3.1 Schedule of Base Bid Unit Prices, Item 7 6" HDPE Water Main Installed via Horizontal Directional Drilling, 1. Work Included, <u>Revise</u> Item d. to read as follows: "Asphalt pavement restoration for disturbances resulting from the HDPE water main installation shall be included in Item 18. Turf restoration, including topsoil, seeding, and mulching, for disturbances resulting from the HDPE water main installation to be performed by others".
- 2. Part 3 Execution, 3.1 Schedule of Base Bid Unit Prices, Item 9 Connections to Existing Water Mains, 1. Work Included, <u>Add</u> the following after Item d.: "e. Abandonment of existing water mains at the proposed connection locations shall be included in this Item".
- 3. Part 3 Execution, 3.1 Schedule of Base Bid Unit Prices, Item 18 Asphalt Pavement Replacement, 1. Work Included, <u>Revise</u> Item e. to read as follows: "Asphalt pavement replacement for work associated with connections to existing water mains, hydrant and valve assembly installation, and HDPE water mains installed via horizontal directional drilling shall be included in this Item".

RESPONSES TO BIDDER QUESTIONS

- 1. Q: Are stainless steel t-bolts required on mechanical joint fittings and valves or can blue-bolts be used?
 - A: Yes, bidders shall include stainless steel t-bolts for connections to mechanical joint fittings and valves.
- 2. Q: Mueller products seem to be extremely difficult to obtain in the current supply chain climate. Will "or equals" be considered for various components such as curb boxes and brass fittings?
 - A: Yes, "or equals" will be considered for curb boxes, curb stops, and brass fittings.
- 3. Q: Is there an American Iron and Steel Requirement for this project?
 - A: Yes, refer to the above "Changes to Funding Agency Requirements".
- 4. Q: Is any additional information available regarding the type of rock expected to be encountered within the project corridor?
 - A: It is expected that the majority of rock encountered will consist of large cobbles and/or boulders. However, ledge rock is expected to be encountered beneath the 60-inch culvert along County Route 29.
- 5. Q: Project Specification Section 004100 Bid Form for Construction Contract, Article 2.01.B and 2.01.C are requesting a list of subcontractors and suppliers with the Contractor's bid. Yet, Project Specification 002113 Instructions to Bidders, Article 11.02, essentially states that the low bidder will submit a list of their subcontractors and suppliers within five days after Bid opening. Could the Owner/Engineer please verify that the apparent low bid Contractor will submit their list of subcontractors and suppliers five days post bid?
 - A: The apparent low bidder may submit their list of subcontractors and suppliers following the bid opening, but prior to Contract award.

- 6. Q: Could the Owner/Engineer please consider providing the Attachment A Bid Summary Form in Microsoft Excel format?
 - A: The Bid Summary Form is not available in Microsoft Excel format.
- 7. Q: Project Plan Sheets C-100 through C-103 depict "Existing Water Main to be Abandoned in Place". There doesn't appear to be a bid item on the Bid Summary Form included for this work. Could the Owner/Engineer please provide a bid item for this work or clarify under which pay item the water main abandonment is to be measured and paid?
 - A: Costs associated with the abandonment of the existing water main shall be included in the various lump sum water main connection pay items (Items 9A, 9B, and 9C). As connections to existing water mains are completed, the Contractor shall abandon the existing water main in those respective locations in accordance with Detail 2/C-500. See above changes to Section 012200 Unit Prices.
- 8. Q: Project Specification 012200 Unit Prices, page 012200-7, section G.1.d, essentially states that site restoration, specifically asphalt pavement, topsoil, seeding, and mulching, are to be incidental costs to Item 7. Yet, there are pay items for asphalt restoration, items 18 and 19, and Specification page 011000-4, section 1.8.B states that the County will be providing and restoring all topsoil, seeding and mulching. Could the Owner/Engineer please verify that the listed incidental costs to Item 7 are to be either paid under other pay items and/or performed by others? Additionally, Specification page 012200-6, section F.1.e, has listed that restoration will be paid under their representative items.
 - A: See above changes to Section 012200 Unit Prices.
- 9. Q: Project Specification 012200 Unit Prices, page 012200-8, section I.1.a, states that asphalt removal and disposal is an incidental cost to Item 9, yet bid item 4A is included for Asphalt Pavement Removal. Could the Owner/Engineer please verify that all asphalt pavement removal is to be measured and paid under Item 4?
 - A: Asphalt pavement removal paid under Item 4 is restricted to trenching activities only. Asphalt pavement removal required to facilitate work included in Item 9 shall also be included in Item 9.
- 10. Q: Project Specification 012200 Unit Prices, page 012200-13, section R.1.e, references that asphalt pavement replacement associated with "hydrant and valve assembly installation" is to be paid under its respective item. Yet, page 012200-11, section N.1.c reads that asphalt pavement restoration is to be included in Item 18. Could the Owner/Engineer please verify that all asphalt replacement/restoration is to be measured and paid under items 18 or 19?
 - A: All asphalt pavement replacement and restoration shall be measured and paid under Item 18. All asphalt driveway replacement and restoration shall be measured and paid under Item 19. See above changes to Section 012200 Unit Prices.

11. Q: Could the Owner/Engineer please clarify whether or not the Contractor needs to include pricing for an engineer's office, and if so, could the Owner/Engineer please provide the requirements for the engineer's office?

A: An on-site office trailer is not required.

ATTACHMENTS

- 1. Mandatory State Revolving Fund Terms and Conditions for Contracts Funded with the NYS Clean Water State Revolving Fund or Drinking Water State Revolving Fund.
- 2. Iran Divestment Act Certification
- 3. Sexual Harassment Certification
- 4. New York State Vendor Responsibility Questionnaire For-Profit Construction (CCA-2)

END OF ADDENDUM NO. 1

KATHY HOCHUL Governor

MAUREEN A. COLEMAN
President and CEO

Mandatory State Revolving Fund Terms and Conditions

For Contracts Funded with the NYS Clean Water State Revolving Fund or Drinking Water State Revolving Fund

Identify Contract Type prior to Advertisement for Bid:
☑ Construction
Treatment Works and Drinking Water Projects
□ Non-Treatment Works
□ Non-Construction

Effective October 1, 2022

New York State Environmental Facilities Corporation 625 Broadway, Albany, NY 12207-2997 P: (518) 402-6924 www.efc.ny.gov

Contents

	INTRO	DDUCTI	ON	4
REQU	IIRED C	ONTRA	CT LANGUAGE	4
			USED TERMS	
	SECT		FEDERAL ARCHITECTURAL AND ENGINEERING PROCUREMENT	
	0_0.	RFQL	JIREMENTS	5
	SECT	ION 2		
		PART	ICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED	
			RITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL	
			OYMENT OPPORTUNITIES FOR WOMEN AND MINORITY GROUP	
			BERS	5
	I.		ral Provisions	
	II.		Employment Opportunities (EEO)	
	III.	Busin	ess Participation Opportunities for MWBEs	7
		A.	Contract Goals	
		B.	MWBE Utilization Plan	8
		C.	Request for Waiver	8
		D.	Monthly MWBE Contractor Compliance Report ("Monthly MWBE	
			Report")	8
		E.	Liquidated Damages - MWBE Participation	9
	SECT		PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE	
			IFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES	
	SECT	ION 4	AMERICAN IRON AND STEEL (AIS) REQUIREMENT	10
	SECT		DAVIS-BACON (DB) PREVAILING WAGE REQUIREMENTS	10
	SECT		REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT	
		ION 7	RESTRICTIONS ON LOBBYING	
	SECT	ION 8	CONSTRUCTION SIGNS	16
ATTA			uired Forms)	
			EFC MWBE Utilization Plan	
			AIS Contractor's Certification	
	Attach	ment 3	– Lobbying Certification	20

INTRODUCTION

The terms and conditions below must be incorporated verbatim into contracts receiving SRF financial assistance. Additional information relating to each of the requirements is included in the companion guidance document.

REQUIRED CONTRACT LANGUAGE

COMMONLY USED TERMS

The following commonly used terms are defined herein as follows:

Broker means a firm that does not itself perform, manage or supervise the work of its contract or subcontract in a manner consistent with the normal business practices for contractors or subcontractors in its line of business.

Construction means the process by which a contractor or subcontractor builds, alters, repairs, remodels, improves or demolishes infrastructure.

Contract means an agreement between a Recipient and a Contractor.

Contractor means all bidders, prime contractors, non-construction service providers, and consultants as hereinafter defined, unless specifically referred to otherwise.

Manufacturer means a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.

MBO is designated and employed by the Recipient as a Minority Business or Compliance Officer responsible for MWBE/DBE/SDVOB/EEO reporting and compliance.

Non-Construction 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.

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. Responsible through Project Finance Agreement (PFA) to comply with EFC requirements.

State means the State of New York.

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.

Supplier means a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

Treatment Works is defined in Clean Water Act (CWA) Section 212. This does not include nonpoint source projects as defined in CWA Section 319 and estuary management program projects as defined in CWA Section 320.

SECTION 1 FEDERAL ARCHITECTURAL AND ENGINEERING PROCUREMENT REQUIREMENTS

Any Architectural and Engineering (A/E) services for all CWSRF projects and for DWSRF projects receiving federal grant are required to be procured in compliance with 40 USC 1101 et. seq., and 48 CFR Part 36 Subpart 36.6. The Recipient must certify compliance to receive financing. Disregard this section if it does not apply to this Contract.

SECTION 2 REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR WOMEN AND MINORITY GROUP MEMBERS

The Equal Employment Opportunities requirements of this section apply to all Contracts and Subcontracts, with the exception of: (1) the requirements under Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A which apply only to construction Contracts and Subcontracts; and (2) the Federal Affirmative Action Regulations requirements which apply only to construction Contracts and Subcontracts greater than \$10,000.

The Minority- and Women- Owned Business Enterprises ("MWBE") participation requirements of this section apply to the Contracts Meeting Article 15-A Thresholds.

Contracts Meeting Article 15-A Thresholds means Contracts or Subcontracts meeting the thresholds under New York State Executive Law Article 15-A as follows:

- a) Non-Construction Provider Contracts greater than \$25,000;
- b) Non-Construction Provider Contracts that are initially under \$25,000 but subsequent change orders or contract amendments increase the Contract value to above \$25,000;
- c) Construction Contracts greater than \$100,000; and,
- d) Construction Contracts that are initially under \$100,000 but subsequent change orders or contract amendments increase the Contract value to above \$100,000.

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:
 - New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 ("MWBE Regulations") for all State Contracts meeting Article 15-A thresholds.
 - 2. 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.
 - 3. Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A ("Title VII") for construction Contracts related to any government programs providing federal financial assistance, as those terms are defined therein.
 - 4. 41 CFR Part 60-4 ("Federal Affirmative Action Regulations") for federal or federally assisted construction Contracts in excess of \$10,000, as those terms are defined therein.
 - 5. 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.
 - 6. The Age Discrimination Act of 1975 ("Age Discrimination Act") for any program or activity receiving federal financial assistance, as those terms are defined therein.

- 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. Upon request from the Recipient and/or EFC, Contractor will provide complete responses to inquiries and all MWBE and EEO records available within a reasonable time or as otherwise determined by EFC.
- C. 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(E) of this section, or enforcement proceedings as allowed by the Contract.
- D. If any terms or provisions herein conflict with Executive Law Article 15-A, the MWBE Regulations, Title VI, Title VII, or Federal Affirmative Action Regulations, such law and regulations shall supersede these requirements.

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. The Contractor shall comply with the provisions of the Human Rights Law (Executive Law Article 15), Title VI, Title VII, the Federal Affirmative Action Regulations, 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.
- 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. Pursuant to 40 CFR § 7.95, the Contractor shall display a copy of the EEO notice at the project site in a visible location. The notice shall accommodate individuals with impaired vision or hearing and should be provided in languages other than English where appropriate. The notice must also identify the employee responsible for its EEO compliance. See guidance document for sample notice.
- E. The Contractor will include the provisions of Subdivisions II(A) and II(C) 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.
- F. The Contractor and Subcontractor will comply with the requirements of 41 CFR § 60-1.4(b) and (c), and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor and Subcontractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

- G. For construction contracts in excess of \$10,000, the Contractor and Subcontractor will comply with the Affirmative Action Regulations and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor place affirmative action goals on Contracts and Subcontracts, as established by the United States Department of Labor. See guidance document for goals.
- H. Pursuant to 41 CFR Section 60-1.7 for federally assisted construction Contracts, Contractor and Subcontractor will annually file an EEO-1 Report with the Joint Reporting Committee for the Office of Federal Contract Compliance Programs (OFCCP) and the Equal Employment Opportunity Commission (EEOC) according to the instructions provided at https://www.eeoc.gov/employers/eeo-1-survey/eeo-1-instruction-booklet, if Contractor or Subcontractor:
 - 1. Is not exempt from compliance pursuant to 41 CFR § 60-1.5;
 - 2. Has 50 or more employees;
 - 3. Is a prime Contractor or first tier Subcontractor; or Subcontractor below the first tier which performs construction work at the site of construction; and
 - 4. Has a Contract, Subcontract, or purchase order amounting to \$50,000 or more.

III. Business Participation Opportunities for MWBEs

Applicable to Contracts Meeting Article 15-A Thresholds

A. Contract Goals

- New York State certified MWBE participation goals for this contract are 20%. For projects funded from the sources listed below, the goals may be achieved through any combination of MBE and/or WBE participation.
 - a. CWSRF, DWSRF & Green Innovation Grant Program (GIGP).
 - NYS Water Infrastructure Improvement Act Grants that are also receiving EFC financing.
 - c. NYS Intermunicipal Grants that are also receiving EFC financing.
- 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 https://ny.newnycontracts.com.
- 3. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as defined in 5 NYCRR § 140.1, may be applied towards achievement of applicable MWBE participation goals.
 - a. For construction and 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.
 - b. For Non-Construction Provider Contracts or Subcontracts, the portion of a Contract or Subcontract with an MWBE serving as a Broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract.
- 4. 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.

5. 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

- The Contractor represents and warrants that Contractor has submitted a completed copy of the MWBE Utilization Plan with all required bid forms to the MBO no later than the execution date of this Contract.
- 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. The Contractor must report any changes to the Utilization Plan after Contract award and during the term of the Contract to the MBO. The Contractor shall indicate the changes to the MBO in the Monthly MWBE Contractor Compliance Report immediately following the change. 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 Monthly MWBE Contractor Compliance Report or 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. Request 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 MBO documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request aligns with the documentation identified on the Request for Waiver form, the MBO 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 MBO, 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")

1. The Contractor agrees to submit a report to the MBO 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. 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.
- 2. Liquidated damages shall be calculated as an amount not to exceed the difference between:
 - a. All sums identified for payment to MWBEs had the Contractor achieved the approved MWBE participation goals; and,
 - b. All sums actually paid to MWBEs for work performed or materials supplied under this Contract.
- 3. 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.
- 4. 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 3 PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES

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

- A. New York State Veterans' Service Law Article 3, and 9 NYCRR Part 252, and/or any other related regulations promulgated thereto, provides 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. New York State 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.
- B. 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.
- C. 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 to discuss methods of maximizing participation by

SECTION 4 AMERICAN IRON AND STEEL (AIS) REQUIREMENT

The requirements of this section apply to (1) all Construction Contracts and Subcontracts for DWSRF projects and CWSRF Treatment Works projects and (2) all Contracts for the purchase of iron and steel products for a DWSRF project or CWSRF Treatment Works project. Disregard this section if it does not apply to this Contract or Subcontract.

The Contractor shall submit with their bid or proposal documents an executed AIS Contractors Certification on the form attached hereto as Attachment 2 acknowledging to and for the benefit of the Recipient of the Clean Water State Revolving Fund ("CWSRF") or the Drinking Water State Revolving Fund ("DWSRF") financial assistance that the Contractor understands the goods and services under this Agreement are being funded with monies made available by the New York State Environmental Facilities Corporation ("EFC") through the CWSRF or the DWSRF and that such funding is subject to certain statutory restrictions requiring that certain iron and steel products used in the project be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement.

The Contractor hereby represents and warrants that:

- (a) the Contractor has reviewed and understands the American Iron and Steel Requirement,
- (b) all of the iron and steel products covered by the American Iron and Steel Requirement used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and
- (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Recipient.

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Recipient to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Recipient resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EFC or any damages owed to the EFC by the Recipient). While the Contractor has no direct contractual privity with the EFC, as a lender to the Recipient for the funding of this project, the Recipient and the Contractor agree that the EFC is a third-party beneficiary and neither this paragraph, nor any other provision of this Agreement necessary to give this paragraph force or effect, shall be amended or waived without the prior written consent of the EFC.

SECTION 5 DAVIS-BACON (DB) PREVAILING WAGE REQUIREMENTS

The requirements of this section apply to all Construction Contracts and Subcontracts greater than \$2,000 for either DWSRF projects or CWSRF Treatment Works projects. Disregard this section if it does not apply to this Contract or Subcontract.

For Contracts in Excess of \$2,000:

- 1. Minimum Wages
 - (i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist

between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its Subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. The Davis-Bacon poster (WH-1321) can be found at https://www.dol.gov/whd/regs/compliance/posters/davis.htm . Wage determinations may be obtained from the US Department of Labor's website, https://beta.sam.gov/.

- (ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The contracting officer shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - 1. The work to be performed by the classification requested is not performed by a classification in the wage determination;
 - 2. The classification is utilized in the area by the construction industry; and,
 - 3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
 - (B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
 - (C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.
 - (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (1) (ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

- (iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program provided that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis–Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
- 2. Withholding. The Recipient shall upon its own action or upon written request of the EPA Award Official or an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis—Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any Subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the Contract, the Recipient may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records.

- (i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR § 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
- (ii)(A) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Recipient. Such documentation shall be available on request of EFC or EPA. As to each payroll copy received, the Recipient shall provide written confirmation in a form satisfactory to EFC indicating whether or not the project is in compliance with the requirements of 29 CFR § 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at https://www.dol.gov/agencies/whd/government-

contracts/construction/forms or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all Subcontractors. Contractors and Subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Recipient, for transmission to EFC, EPA if requested by EPA, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Contractor to require a Subcontractor to provide addresses and social security numbers to the prime Contractor for its own records, without weekly submission to the Recipient (or the applicant, sponsor, or owner).

- (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or Subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:
 - 1. That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;
 - 2. That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
 - 3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.
- (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.
- (D) The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
- (iii) The Contractor or Subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Recipient, EFC, EPA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or Subcontractor fails to submit the required records or to make them available, the Recipient, EFC, or EPA may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

4. Apprentices and trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above,

shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or Subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
- 5. Compliance with Copeland Act Requirements. The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.
- 6. Subcontracts. The Contractor or Subcontractor shall insert in any Subcontracts the clauses contained in 29 CFR § 5.5(a)(1) through (10) and such other clauses as the Recipient may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier Subcontracts. The prime Contractor shall be responsible for the compliance by any Subcontractor or lower tier subcontractor with all the Contract clauses in 29 CFR § 5.5.
- 7. Contract Termination: Debarment. A breach of the contract clauses in 29 CFR § 5.5 may be grounds for termination of the Contract, and for debarment as a Contractor and a Subcontractor as provided in 29 CFR § 5.12.

- 8. Compliance with Davis–Bacon and Related Act requirements. All rulings and interpretations of the Davis–Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.
- 9. Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its Subcontractors) and the Recipient, the U.S. Department of Labor, or the employees or their representatives.
- 10. Certification of eligibility.
 - (i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government Contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - (ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. § 1001.

For Contracts in Excess of \$100,000:

- 1. Overtime requirements. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- 2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- 3. Withholding for unpaid wages and liquidated damages. The Recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or Subcontractor under any such Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- 4. Subcontracts. The Contractor or Subcontractor shall insert in any Subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier Subcontracts. The prime Contractor shall be responsible for compliance by any Subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.
- 5. In any Contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR § 5.1, the Contractor or Subcontractor shall maintain payrolls and

basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the records to be maintained under this paragraph shall be made available by the Contractor or Subcontractor for inspection, copying, or transcription by authorized representatives of the Recipient and the Department of Labor, and the Contractor or Subcontractor will permit such representatives to interview employees during working hours on the job.

SECTION 6 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 debarred from or deemed ineligible for Government Contracts or federally assisted Construction Contracts pursuant to Executive Order 12549.

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 7 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 bidding or proposing a Contract or Subcontract in excess of \$100,000 shall submit with their bid or proposal documents an executed Certification Regarding Lobbying pursuant to 40 CFR Part 34 ("Lobbying Certification") in the form attached hereto as Attachment 3, consistent with the prescribed form provided in Appendix A to 40 CFR Part 34.

SECTION 8 CONSTRUCTION SIGNS

The requirements of this section apply to all EFC projects. Additional signage is required for projects receiving financing from the federal Bipartisan Infrastructure Law (BIL).

If Contractor is expected to provide an EFC Construction Sign, a specification will be included in the enclosed contract documents.

ATTACHMENTS (Required Forms)

Revision Date: 5/1/2023

Attachment 1 – EFC MWBE Utilization Plan

Revision Date: 5/1/2023



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 to the Recipient's 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 Mandatory Terms and Conditions or consult your designated MBO for further guidance.

Instructions for Minority Business Officers (MBO):

The MBO must complete Section 1. Email the completed, signed (electronic signature box checked and dated) form to your EFC Program Compliance Specialist.

The subject heading of the email to the EFC Program Compliance Specialist should follow the format "UP, Project Number, Contractor." EFC will review the Utilization Plan and email the MBO an acceptance or denial.

SECTION 1: MUNICIPAL INFORMATION							
Recipient/Municipality:			County:				
Project No.: GIGP No.: Contract				:	Registration	on No. (NYC only):	
Minority Business Officer	:		Email:		Phone #:		
Address of MBO:						1	
Electronic Signature of MBO: 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: Construction Other Services							
Prime Firm is Certified as: MBE WBE N/A Other: If certified, please include Prime information in Section 3. If dual certified, you must select either MBE or WBE.							
Address: Pho			Phone	e #:	Fed.	Employer ID #:	
Description of Work: Email:							
Award Date:	Start Date:	Completion Da	ate:	MWBE G	OAL Total	PROPOSED MV	WBE Participation
Total Contract Amount: \$ MWBE Eligible Contract Amount: \$ (MWBE Goals are applied to this amount and includes all change orders, amendments, & specialty waivers) Total: % \$			\$	Total: % \$	5		

SECTION	1 3: MWBE SUBCONTRACTOR INFO	PRMATION	
This Submittal is:	Revised Utilization Plan #:		
NYS Certified M/WBE Subo	contractor Info	Contract Amount:	For EFC Use:
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Select Only One: MBE WBE Other:	Start Date:		
Select Only One: Broker % Supplier N/A	Completion Date:		
Full Contract Amount: \$			
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Select Only One: MBE WBE Other:	Start Date:		
Select Only One: Broker % Supplier N/A	Completion Date:		
Full Contract Amount: \$			
5 / N			
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Select Only One: MBE WBE Other:	Start Date:		
Select Only One: Broker % Supplier N/A	Completion Date:		
Full Contract Amount: \$			
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Select Only One: MBE WBE Other:	Start Date:		
Select Only One: Broker % Supplier N/A	Completion Date:		
Full Contract Amount: \$			

SECTION 3: M/WB	SE SUBCONTRACTOR INFORMATION continued	
Business Name:	Fed. Employer ID#:	
Address:	Phone #:	
Scope of Work:	Email:	
Select Only One: MBE WBE Other:	Start Date:	
Select Only One: Broker % Supplier N/A	Completion Date:	
Full Contract Amount: \$		
Business Name:	Fed. Employer ID#:	
Address:	Phone #:	
Scope of Work:	Email:	
Select Only One: MBE WBE Other:	Start Date:	
Select Only One: Broker % Supplier N/A	Completion Date:	
Full Contract Amount: \$		
Business Name:	Fed. Employer ID#:	
Address:	Phone #:	
Scope of Work:	Email:	
Select Only One: MBE WBE Other:	Start Date:	
Select Only One: Broker % Supplier N/A	Completion Date:	
Full Contract Amount: \$		
Business Name:	Fed. Employer ID#:	
Address:	Phone #:	
Scope of Work:	Email:	
Select Only One: MBE WBE Other:	Start Date:	
Select Only One: Broker % Supplier N/A	Completion Date:	
Full Contract Amount: \$		
	SIGNATURE	
	ation submitted herein is true, accurate and complete to the best of my	
knowledge and that all MWBE subcontractors will perform a comm	mercially useful function.	Date:
Name (Please Type):		

Attachment 2 – AIS Contractor's Certification

Revision Date: 5/1/2023



AIS CONTRACTOR CERTIFICATION

FOR CONSTRUCTION CONTRACTS FUNDED THROUGH

THE NYS CLEAN WATER STATE REVOLVING FUND, OVERFLOW AND STORMWATER GRANTS OR

THE NYS DRINKING WATER STATE REVOLVING FUND VIA THE NYS ENVIRONMENTAL FACILITIES CORPORATION

Project Title:			
Contractor's Name:			
Contract ID:			
SRF Project No.:		_	
SRF Recipient Name:			
wastewater treatment wo the United States, in acc Agency and 33 U.S.C. § will develop and maintain permanently incorporate	d steel products permanently incorks project under this construct cordance with the requirements \$ 1388, 42 U.S.C. § 300j-12(a)(4 in necessary documentation to ded into the project were produced to The New York State Environequest.	tion contract will be all of the United States E) and any regulations lemonstrate that the i d in the United States	nd/or have been produced in Environmental Protection promulgated thereunder. In Iron and steel products In and make such
Signature:			
Name (print):			
Title:			

Date:

Attachment 3 – Lobbying Certification

Revision Date: 5/1/2023



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

SRF Project No.:	
Recipient:	
Project Description:	

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.

Signature:	
Name:	
Title:	
Company Name:	
Date:	
Contract ID:	

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:	
Print Name:	
Title:	
Company Name:	
Date: :	

BIDDER'S CERTIFICATION

Name of Bid:
 In submitting this Bid, BIDDER represents, as more fully set forth in this Bid, that: a) BIDDER acknowledges that they have read, understand, and agree to all aspects of the terms and specifications as presented without reservation or alteration. b) When awarded, the bid package becomes the "Contract Document". c) That the organization, its principals, and sub-recipients are not currently suspended or debarred from doing business with the Federal Government. d) The BIDDER has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees in accordance with New York State Labor Law §201-g.
Date:
Vendor:
Authorized Signature:
Print Name:
Subscribed to and sworn to before me
this day of, 20
Notary Public

Sexual Harassment Prevention EMPLOYER TOOLKIT



Introduction

New York State is a national leader in the fight against sexual harassment and is partnering with employers across the state to further our commitment to ending sexual harassment in the workplace.

This toolkit will provide you step-by-step guidance to implementing the required training and sexual harassment policy, directing you to resources available through New York State and the relevant state agencies.

These resources are all available on the State's Combating Sexual Harassment in the Workplace website: www.ny.gov/programs/combating-sexual-harassment-workplace.

What are the New Requirements?

The 2019 New York State Budget includes the nation's strongest and most comprehensive sexual harassment package, including new resources and requirements for employers. There are two key components under this law:

Policy (see pages 2-4)

Under the new law, every employer in New York State is **required to establish a sexual harassment prevention policy**. The Department of Labor in consultation with the Division of Human Rights has established a model sexual harassment prevention policy for employers to adopt, available at www.ny.gov/programs/combating-sexual-harassment-workplace. Or, employers may adopt a similar policy that meets or exceeds the minimum standards of the model policy (www.ny.gov/combating-sexual-harassment-workplace/employers#model-sexual-harassment-policy).

Training (see pages 5-6)

In addition, every employer in New York State is **required to provide employees with sexual harassment prevention training**. The Department of Labor in consultation with the Division of Human Rights has established this model training for employers to use. Or, employers may use a training program that meets or exceeds the minimum standards of the model training (www.ny.gov/combating-sexual-harassment-workplace/employers#training-requirements).

Policy: Implementation

All employers must adopt and provide a sexual harassment prevention policy to all employees by **October 9, 2018**.

If you want to adopt the State Model Policy:

- The State Model Policy contains fields for you to list your business name and the name/contact
 information for the individual(s) you have designated to receive sexual harassment complaints.
 Fill in those fields and apply whatever branding (e.g., logos, etc.) you like. You may choose to
 modify the policy to reflect the work of your organization and industry specific scenarios or best
 practices.
- Distribute the policy to all employees in writing or electronically. Employers are also
 encouraged to have employees acknowledge receipt of the policy, and to post a copy of the
 policy where employees can easily access it.

If you already have a policy and do NOT want to adopt the State Model Policy:

- Use the checklist on the next page to ensure your policy meets or exceeds the required minimum standards.
- If it already meets those standards, ensure it already has been or will be distributed to employees by October 9, 2018. All future new employees should receive the policy before commencing work.
- Ensure your complaint form and process are up to date and that employees are made aware
 of it as part of the policy.
- If you do not have a complaint form, a model is available online: www.ny.gov/combating-sexual-harassment-workplace/employers#model-complaint-form
- Review the online FAQs, which outline numerous common questions that may arise: <u>www.ny.gov/combating-sexual-harassment-workplace/combating-sexual-harassment-frequently-asked-questions</u>
- Distribute a copy of your finalized policy to all employees in writing. This may be done
 electronically, for example, by email. Employers are also encouraged to have employees
 acknowledge receipt of the policy, and to post a copy of the policy where employees can easily
 access it.
- You are also encouraged to provide the policy and training to anyone providing services in the workplace.

If you do NOT yet have a policy:

- Download the model policy, available online: www.ny.gov/combating-sexual-harassment-policy
- Customize the document by filling in the employer name, person or office designated to receive complaints and appropriate contact information, as highlighted throughout.
- You may choose to modify the policy to reflect the work of your organization and industry specific scenarios or best practices.
- Review the online FAQs, which outline numerous common questions that may arise: <u>www.ny.gov/combating-sexual-harassment-workplace/combating-sexual-harassment-frequently-asked-questions</u>
- Distribute a copy of your finalized policy to all employees in writing. This may be done
 electronically, for example, by email. Employers are also encouraged to have employees
 acknowledge receipt of the policy, and to post a copy of the policy where employees can easily
 access it.
- You are also encouraged to provide the policy and training to anyone providing services in the workplace.

Policy: Minimum Standards Checklist

An employer that does not use the State model policy -- developed by the State Department of Labor and State Division of Human Rights -- must ensure their policy meets or exceeds the following minimum standards.

The	policy must :
	Prohibit sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights;
	Provide examples of prohibited conduct;
	Include information concerning the federal and state statutory provisions concerning sexual harassment, remedies available to victims of sexual harassment, and a statement that there may be applicable local laws;
	Include a complaint form;
	Include a procedure for the timely and confidential investigation of complaints that ensures due process for all parties;
	Inform employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially;
	Clearly state that sexual harassment is considered a form of employee misconduct and that sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue; and
	Clearly state that retaliation against individuals who complain of sexual harassment or who testify or assist in any investigation or proceeding involving sexual harassment is unlawful.

Training: Instructions for Employers

All employers are required to train current employees by October 9, 2019. New employees should be trained as quickly as possible. In addition, all employees must complete sexual harassment prevention training at least once per year. This may be based on calendar year, anniversary of each employee's start date or any other date the employer chooses.

If you already have a training:

- Use the checklist on the next page to ensure your training meets or exceeds the required minimum standards.
- If your existing training does not, it should be updated to include all the listed elements. You may also provide supplemental training to employers who have already completed the training to ensure they have received training that meets or exceeds the minimum standards.
- Review the online FAQs, which outline numerous common questions that may arise: <u>www.ny.gov/combating-sexual-harassment-workplace/combating-sexual-harassment-frequently-asked-questions</u>

If you do NOT yet have a training:

- Download the model training, available online: workplace/employers#training-requirements.
 - You may execute this training in a variety of ways, including live in person, via webinar or on an individual basis, with feedback as outlined in the training guidance document.
 - Depending on how you choose to present your training, you may utilize different available resources. For example, if you do a live presentation, you should download the PowerPoint and read the script that appears in the "Notes" of each slide.
 - If you choose to train employees with the video, you may direct them to watch it online or download it and show to a group, after which you would provide them a mechanism for feedback, as outlined in the training guidance document.
- Customize the training document(s) and modify them to reflect the work of your organization, including industry specific scenarios or best practices.
- The training should detail any internal process employees are encouraged to use to complain and include the contact information for the specific name(s) and office(s) with which employees alleging harassment should file their complaints.
- You may wish to include additional interactive activities as part of the training, including an opening activity, role playing or group discussion(s).
- Review the online FAQs, which outline numerous common questions that may arise: <u>www.ny.gov/combating-sexual-harassment-workplace/combating-sexual-harassment-frequently-asked-questions</u>

Training: Minimum Standards Checklist

An employer that does not use this model training -- developed by the State Department of Labor and State Division of Human Rights -- must ensure their training meets or exceeds the following minimum standards.

The	training must :
	☐ Be interactive (see the model training guidance document for specific recommendations);
	Include an explanation of sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights;
	Include examples of unlawful sexual harassment;
	Include information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to targets of sexual harassment;
	☐ Include information concerning employees' rights of redress and all available forums for adjudicating complaints; and
	Include information addressing conduct by supervisors and additional responsibilities for supervisors.

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT CONSTRUCTION (CCA-2)

You have selected the For-Profit Construction questionnaire, commonly known as the "CCA-2," 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 owner's official representative authorized to legally bind the <u>Reporting Entity</u>, must certify the truth of the questionnaire answers.

NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)

The <u>Vendor ID</u> 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 <u>Vendor ID</u>, contact the IT Service Desk at <u>ITServiceDesk@osc.state.ny.us</u> or call 866-370-4672.

DEFINITIONS

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at http://www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf. These terms may not have their ordinary, common, or traditional meanings. Each vendor must 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 fully. Each response must provide <u>all</u> relevant information to appropriately explain the answer. If you have concerns as to the legal requirements behind your answers, please seek clarification from your counsel. However, information regarding a determination or finding made in error which was subsequently corrected or overturned, and/or was withdrawn by the issuing government entity, is not required to be identified. Individuals and <u>Sole Proprietors</u> may use a Social Security Number but are encouraged to obtain and use a federal <u>Employer Identification Number (EIN)</u>.

BUSINESS ENT	ΓΙΤΥ INFORMA	TION				
<u>Legal Business Name</u>				EIN		
Address of the <u>Principal Place of Business</u> (street, city, state, zip code) Boxes				New York State Ven	dor Identificatio	n Number
				Telephone	Fax	
				ext		
				Website (include all)		
Authorized Conta	act for this Questic	onnaire				
Name				Telephone	Fax	
				ext		
Title				Email		
		es: If applicable, list any othe ounty where filed and the stat			ner Identity, or <u>I</u>	IIN used in
Туре	Name		EIN	State or County where filed		Status
	<u> </u>			L		L
I. BUSINESS C	HARACTERIST	ICS				
1.0 <u>Business E</u>	Entity Type – Chec	k appropriate box and provide	e additional infor	mation:		
a)	ooration <u>PC</u>)	Date of Incorporation				
	ited Liability npany (LLC or C)	Date Organized				
c) Limited Liability Partnership Date of Registration						
d) 🗌 <u>Lim</u>	ited Partnership	Date Established				
e) Gene	eral Partnership	Date Established				
County (if formed in NYS						
f) Sole Proprietor How many years in business?						
g) Date Established						
If Other, ex	xplain:					
1.0 Was the Business Entity formed in New York State?						
If "No," indi	If "No," indicate jurisdiction where the <u>Business Entity</u> was formed:					

I. BUSINESS CHARACTERISTICS					
United States State					
Other Country					
1.2 Is the <u>Legal Business Entity</u> pu	blicly traded?		Yes	☐ No	
If "Yes," provide the CIK code	or Ticker Symbol:		'		
	registered to do business in New York St the Business Entity is a Sole Proprietor o		yes rship □ Yes	☐ No Required	
If "No," explain why the Busin	ess Entity is not required to be registered	to do business in	New York State:		
	ty a <u>Joint Venture</u> ? Note: If the submitting parate questionnaire for each <u>Business En</u>			□ No	
Entity maintain an office in Ne	al Place of Business is not in New York S w York State? ee of Business is in New York State.)	tate, does the <u>Bus</u>	iness Yes N/A	□ No	
If "Yes," provide the address a	nd telephone number for one office locate	d in New York St	tate.		
Owned Business Enterprise, Se	ork State certified <u>Minority-Owned Businervice-Disabled Veteran-Owned Business</u> , <u>Disadvantaged Business Enterprise</u> ?			□ No	
If "Yes," check all that apply:					
	Inority-Owned Business Enterprise (MBE				
	Vomen-Owned Business Enterprise (WBE)				
New York State Small Busi	ervice-Disabled Veteran-Owned Business	(ЗДУОВ)			
<u> </u>	ntaged Business Enterprise (DBE)				
1.7 Identify each person or Business Entity that is or has been within the past five (5) years, a Business Entity Official, or a Principal Owner of 5.0% or more of the Reporting Entity's shares; or one of the five largest shareholders, if applicable. (Attach additional pages if necessary.)					
Joint Ventures: Provide information for all firms involved.					
Each Business Entity identified as a Principal Owner must also submit a Vendor Responsibility Questionnaire.					
(Add additional sheets if necessary.) For each person, include name, title, date of birth, percentage of ownership, and employment status. For each Business Entity that is a Principal Owner, include name, address, EIN, and percentage of ownership.					
If there is no person or <u>Business Entity</u> that owns 5% or more of the Reporting Entity, check here:					
Name (For each person, include a middle initial) Title Date of Birth Percentage of ownership (Enter 0%, if not applicable) Employment status with the firm					

I. BUSINESS CHARACTERIST	ICS					
I. DOSINESS CHARACTERIST						☐ Current ☐ Former ☐ N/A ☐ Current ☐ N/A ☐ Current ☐ Former ☐ N/A ☐ Current ☐ Former
Name of <u>Each Business</u> Entity owning 5% or more of <u>Reporting Entity</u>	Addres	S		EIN	Percentage Owne	□ N/A
2.0 Are there any other construction Business Entity or any of the in 5.0% or more of the shares of, or proprietor of said other firm? If yes, identify below and if the	n-related adividuals or was or ?	firms in which, now or s or business entities lis is one of the five large	ted in ques st shareho	stion 1.7 eith lders or a dir	er owned or owns ector, officer, partner,	Yes No
Firm/Company Name	If yes, identify below and if there is more than one, attach additional pages with required information. Firm/Company Name Firm/Company EIN (If available) Firm/Company's Primary Business Activity					nary Business
Firm/Company Address						
Explain relationship with the firm and indicate percent of ownership, if applicable (enter N/A, if not applicable):						
Are there any shareholders, director has in common with the disclosed f		rs, owners, partners or p	proprietors	that the sub	mitting <u>Business Entity</u>	Yes No
Individual's Name (Include middle initial) Position/Title with Firm/Company						

II. AFFILIATE and JOINT VENTURE F	RELATIONSHIPS				
2.1 Does the <u>Business Entity</u> have any <u>construction</u> -related <u>affiliates</u> not identified in the response to question 2.0 above?				Yes No	
If yes, identify below and if there is mor	re than one, <i>attach additt</i>	ional pages with the re	equired information.		
Affiliate Name	Affiliate EIN (If availa	able)	Affiliate's Primary Bus	siness Activity	
Affiliate Address					
Explain relationship with the affiliate and in	dicate percent of owners	ship, if applicable (enter	er N/A, if not applicable)	:	
Are there any shareholders, directors, officer has in common with the disclosed affiliate(s		roprietors that the sub	mitting Business Entity	Yes No	
Individual's Name (Include middle initial)		Position/Title with Fi	rm/Company		
2.2 Has the <u>Business Entity</u> participated in a years? If yes, identify below and if there is more		_	•	Yes No	
Joint Venture Name Joint Venture EIN (If available) Identify parties to the			oint Venture		
III. CONTRACT HISTORY					
3.0 Has the <u>Business Entity</u> completed any <u>c</u>	construction contracts?			☐ Yes ☐ No	
If "Yes," list the ten most recent construction contracts the <u>Business Entity</u> has completed for government clients using Attachment A - Completed Construction Contracts, found at <u>www.osc.state.ny.us/vendrep/documents/questionnaire/ac3294s.doc</u> . At the <u>Business Entity</u> 's option, it may include <u>construction</u> contracts completed for private clients. If less than ten, include most					
		s completed for privat	e clients. If less than ten,	include most	
recent subcontracts on projects up to that nu	ımber.		e clients. If less than ten,		
recent subcontracts on projects up to that nu 3.1 Does the <u>Business Entity</u> currently have	umber. uncompleted construction	on contracts?	<u> </u>	Yes No	
recent subcontracts on projects up to that nu	umber. uncompleted construction uction contracts for government	on contracts? vernment clients by using	ng Attachment B – Unco	Yes No	
recent subcontracts on projects up to that nu 3.1 Does the <u>Business Entity</u> currently have If "Yes," list all current uncompleted <u>constr</u>	unber. uncompleted construction uction contracts for govertate.ny.us/vendrep/documents	on contracts? <u>ernment</u> clients by using ments/questionnaire/a	ng Attachment B – Unco. <u>c3295s.doc</u> .	Yes No	
recent subcontracts on projects up to that nu 3.1 Does the Business Entity currently have If "Yes," list all current uncompleted construction Contracts, found at www.osc.s Note: Ongoing projects must be included. As private clients.	unber. uncompleted construction uction contracts for goverate.ny.us/vendrep/docu. t the Business Entity's of	on contracts? <u>ernment</u> clients by using ments/questionnaire/a	ng Attachment B – Unco. <u>c3295s.doc</u> .	Yes No	
recent subcontracts on projects up to that nu 3.1 Does the <u>Business Entity</u> currently have If "Yes," list all current uncompleted construction Contracts, found at <u>www.osc.s</u> Note: Ongoing projects must be included. As	uncompleted construction unction contracts for government tate.ny.us/vendrep/docust the Business Entity's of	on contracts? <u>ernment</u> clients by using ments/questionnaire/aption, it may include c	ng Attachment B – Unco. <u>c3295s.doc</u> . <u>onstruction</u> contracts un	Yes No	
recent subcontracts on projects up to that nu 3.1 Does the Business Entity currently have If "Yes," list all current uncompleted construction Contracts, found at www.osc.s Note: Ongoing projects must be included. As private clients. IV. INTEGRITY – CONTRACT BIDDIN	uncompleted construction unction contracts for government tate.ny.us/vendrep/docust the Business Entity's of the Business Entity an affiliate,	on contracts? ernment clients by using ments/questionnaire/aption, it may include contracts or any predecessor contracts.	ng Attachment B – Unconcase of the construction contracts uncompany or entity:	Yes No	
recent subcontracts on projects up to that nu 3.1 Does the Business Entity currently have If "Yes," list all current uncompleted constraction Contracts, found at www.osc.s Note: Ongoing projects must be included. As private clients. IV. INTEGRITY – CONTRACT BIDDIN Within the past five (5) years, has the Busin 4.0 Been suspended or debarred from any go	uncompleted construction uction contracts for government contracts. uction contracts for government. uction contracts for government. uction construction government.	on contracts? sernment clients by usinents/questionnaire/a ption, it may include contracts or any predecessor contracts rocess or been disqual	ng Attachment B – Uncological Struction construction contracts uncompany or entity:	Yes No mpleted completed for	
recent subcontracts on projects up to that not 3.1 Does the Business Entity currently have If "Yes," list all current uncompleted construction Contracts, found at www.osc.s Note: Ongoing projects must be included. As private clients. IV. INTEGRITY – CONTRACT BIDDIN Within the past five (5) years, has the Busin 4.0 Been suspended or debarred from any go government procurement?	uncompleted construction uction contracts for government contracts. It the Business Entity's of the Business Entity an affiliate, overnment contracting process for lack of qualificative for lack of qualificative uncomplete the support of the supp	on contracts? sernment clients by usiments/questionnaire/aption, it may include contracts or any predecessor concess or been disqual fication?	ng Attachment B – Unco. c3295s.doc. onstruction contracts un ompany or entity: ified on any	Yes No mpleted completed for	

IV. INTEGRITY – CONTRACT BIDDING Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:						
4.4 Had a bid rejected on a government contract for failure to make good faith efforts on any Minority-Owned Business Enterprise, Women-Owned Business Enterprise, Service-Disabled Veteran-Owned Business or Disadvantaged Business Enterprise goal or statutory affirmative action requirements on a previously held contract?	☐ Yes ☐ No					
4.5 Agreed to a voluntary exclusion from bidding/contracting with a government entity?	☐ Yes ☐ No					
4.6 Requested or been permitted to withdraw a bid submitted to a government entity or made any claim of an error on a bid submitted to a government entity?	Yes No					
For each "Yes," provide an explanation of the issue(s), the <u>Business Entity</u> , affiliate, <u>predecessor company or entity</u> involved, the relationship to the submitting <u>Business Entity</u> , the <u>government entity</u> involved, project(s), relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered responses to explain each "YES" response.						
V. INTEGRITY – CONTRACT AWARD Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:						
5.0 Defaulted on or been <u>suspended</u> , cancelled or <u>terminated for cause</u> on any contract?	☐ Yes ☐ No					
5.1 Been subject to an <u>administrative proceeding</u> or civil action, including arbitration, seeking specific performance or restitution (except any disputed work proceeding) in connection with any <u>government contract</u> ?	Yes No					
5.2 Entered into a formal monitoring agreement, integrity agreement, consent decree, or stipulation, settlement as specified by, or agreed to with, any government entity?	Yes No					
5.3 Had its surety called upon to complete any contract whether government or private sector?	Yes No					
5.4 Forfeited all or part of a standby letter of credit in connection with any government contract?	☐ Yes ☐ No					
For each "Yes," provide an explanation of the issue(s), the <u>Business Entity</u> , <u>affiliate</u> , <u>predecessor company or entity</u> relationship to the submitting <u>Business Entity</u> , the <u>government entity</u> /owners involved, project(s), contract number(any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attack with numbered responses to explain each "YES" response.	(s), relevant dates,					
VI. CERTIFICATIONS/LICENSES						
Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:						
6.0 Had a revocation or <u>suspension</u> of any business or professional permit and/or license?	☐ Yes ☐ No					
6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of Minority-Owned Business Enterprise, Women-Owned Business Enterprise, Service-Disabled Veteran-Owned Business or a federal certification of Disadvantaged Business Enterprise status, for other than a change of ownership?	Yes No					
For each "Yes," provide an explanation of the issue(s), the <u>Business Entity affiliate</u> , <u>predecessor company or entity</u> relationship to the submitting <u>Business Entity</u> , the <u>government entity</u> involved, relevant dates, any remedial or corr taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered reach "YES" response.	rective action(s)					

NYS VENDOR ID: 000000000 AC 3292-S (Rev. 03/2022)

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE **FOR-PROFIT CONSTRUCTION (CCA-2)**

VII. LEGAL PROCEEDINGS/GOVERNMENT INVESTIGATIONS	
Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:	
7.0 Been the subject of a criminal <u>investigation</u> , whether open or closed, or an indictment for any business-related conduct constituting a crime under local, state or <u>federal</u> law?	Yes No
7.1 Been the subject of:	☐ Yes ☐ No
(i.) An indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime; or	
(ii.) Any criminal <u>investigation</u> , felony indictment or conviction concerning the formation of, or any business association with, an allegedly false or fraudulent <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> , Service-Disabled Veteran-Owned Business, or a <u>Disadvantaged Business Enterprise</u> ?	
7.2 Received any <u>OSHA</u> citation, which resulted in a final determination classified as <u>serious</u> or <u>willful</u> ?	☐ Yes ☐ No
7.3 Had a government entity find a willful prevailing wage or supplemental payment violation?	☐ Yes ☐ No
7.4 Had a New York State Labor Law violation deemed willful?	☐ Yes ☐ No
7.5 Entered into a consent order, monitoring agreement or other type of oversight with the New York State Department of Environmental Conservation, or a <u>federal</u> , state or local government enforcement entity involving a violation of <u>federal</u> , state or local environmental laws?	Yes No
7.6 Other than previously disclosed, been the subject of any <u>citations</u> , notices or violation orders; a pending administrative hearing, proceeding or determination of a violation of:	Yes No
• <u>Federal</u> , state or local health laws, rules or regulations;	
• <u>Federal</u> , state or local environmental laws, rules or regulations;	
 Unemployment insurance or workers compensation coverage or <u>claim</u> requirements; 	
 Any labor law or regulation, which was deemed willful; 	
• Employee Retirement Income Security Act (ERISA);	
• <u>Federal</u> , state or local human rights laws;	
• <u>Federal</u> , state or local security laws;	
• Federal, state, or local tax laws?	
For each "Yes," provide an explanation of the issue(s), the <u>Business Entity</u> , <u>affiliate</u> , <u>predecessor company or entity</u> relationship to the submitting <u>Business Entity</u> , the <u>government entity</u> involved, relevant dates, any remedial or contaken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered	orrective action(s)

explain each "YES" response.

 $Note:\ Information\ regarding\ a\ determination\ or\ finding\ made\ in\ error,\ which\ was\ subsequently\ corrected\ or\ overturned,\ and/or$ was withdrawn by the issuing government entity, is not required.

VIII. LEADERSHIP INTEGRITY						
If the Business Entity is a Joint Venture Entity, answer "N/A - Not Applicable" to questions in this section.						
Within the past five (5) years has any individual previously identified or any individual currently or formerly lauthority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the with any government entity been:						
8.0 <u>Sanctioned</u> relative to any business or professional permit and/or license?	☐ Yes ☐ No ☐ N/A					
8.1 <u>Suspended</u> , <u>debarred</u> or <u>disqualified</u> from any <u>government contracting process</u> ?	☐ Yes ☐ No ☐ N/A					
8.2 The subject of a criminal <u>investigation</u> , whether open or closed, or an indictment for any business-related conduct constituting a crime under local, state or <u>federal</u> law?	☐ Yes ☐ No ☐ N/A					
 8.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a judgment for: (i.) Any business-related activity, including but not limited to theft, fraud, coercion, extortion, bribe or bribe-receiving, giving or accepting unlawful gratuities, immigration or tax fraud, racketeering, mail fraud, wire fraud, price-fixing or collusive bidding; or (ii.) Any crime, whether or not business-related, the underlying conduct of which related to truthfulness, including but not limited to the filing of false documents or false sworn statements, perjury or larceny 	Yes No					
For each "Yes," provide an explanation of the issue(s), the individual involved, the relationship to the submitting <u>Business Entity</u> , the <u>government entity</u> involved, relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered responses to explain each "YES" response.						
IX. FINANCIAL AND ORGANIZATIONAL CAPACITY						
9.0 Within the past five (5) years, has the <u>Business Entity</u> or any <u>affiliate</u> received any <u>formal unsatisfactory</u> <u>performance assessment(s)</u> from any <u>government entity</u> on any contract?	☐ Yes ☐ No					
If "Yes," provide an explanation of the issue(s), the <u>Business Entity</u> or affiliate involved, the relationship to the submitting <u>Business Entity</u> , the <u>government entity</u> involved, relevant dates, 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 to explain the "Yes" response.						
9.1 Within the past five (5) years, has the <u>Business Entity</u> or any <u>affiliate</u> had any <u>liquidated damages</u> assessed over \$25,000 for any reason, including failure to meet <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> , Service-Disabled Veteran-Owned Business, or <u>Disadvantaged Business Enterprise goals</u> ?	Yes No					
If "Yes," provide an explanation of the issue(s), the name of the <u>Business Entity or affiliate</u> involved, the relationship to the submitting <u>Business Entity</u> , relevant dates, the contracting party involved, the amount assessed and the current status of the issue(s), and the balance of the assessment not yet paid. Provide answer below or attach additional sheets with numbered responses.						
9.2 Within the past five (5) years, has the <u>Business Entity</u> or any <u>affiliate</u> had any <u>liens</u> , <u>claims</u> or <u>judgments</u> over \$25,000 filed against the <u>Business Entity</u> which remain undischarged or were unsatisfied for more than 90 days? (<i>Note: Including but not limited to tax warrants or liens. Do not include UCC filings.</i>)	Yes No					

IX. FINANCIAL AND ORGANIZA	TIONAL CAPACITY					
If "Yes," provide an explanation of the issue(s), the name of the <u>Business Entity or affiliate</u> involved, the relationship to the submitting <u>Business Entity</u> , relevant dates, the Lien holder or Claimants' name(s), the amount of the <u>lien(s)</u> , the current status of the issue(s), and the balance of the lien, claim or judgment not yet paid. Provide answer below or attach additional sheets with numbered responses.						
9.3 In the last seven (7) years, has the <u>I</u> any bankruptcy proceedings, whetle					Yes No	
If "Yes," provide the name of the <u>Busing</u> the bankruptcy chapter number, the constituted," "Pending" or "Closed." A YES response.	urt name and the docket	number. Indicat	te the ci	irrent status of the procee	dings as	
9.4 What is the <u>Business Entity's</u> Bond	ing Capacity?					
a. Single Project		b. Aggregate (A	All Proj	ects)		
9.5 List <u>Business Entity's</u> Gross Sales	for the previous three (3)	Fiscal Years:				
1st Year (Indicate year)	2nd Year (Indicate year	ur)		3rd Year (Indicate year)		
Gross Sales	Gross Sales			Gross Sales		
9.6 List <u>Business Entity's</u> Average Bac (Estimated total value of uncomple	e 1	` '	rs:			
1st Year (Indicate year)	2nd Year (Indicate year	ur)		3rd Year (Indicate year)		
Amount	Amount			Amount		
9.7 Attach <u>Business Entity's</u> most receinformation, found at <u>www.osc.sta</u> (This information must be attached)	te.ny.us/vendrep/docume				ment C – Financial	
V EDEEDOM OF INCODMATION	I AW (FOIL)					
X. FREEDOM OF INFORMATION						
10.0 Indicate whether any information provided 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 FOL						
If "Yes," indicate the question number	(s) and explain the basis	for the claim.				
Authorizee						
XI. AUTHORIZED CONTACT FOI	R THIS QUESTIONNA	AIRE				
Name Telephone Fax						
ext.						
Title Email						

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT CONSTRUCTION (CCA-2)

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.

It being acknowledged and agreed that all responses included in this questionnaire are to the knowledge, information and belief of the Business Entity, the undersigned certifies under penalties of perjury that they:

The undersigned certifies that he/she:

- are knowledgeable about the submitting Business Entity's business and operations;
- have legal authority to bind the Business Entity;
- have read and understand all of the questions contained in the questionnaire, including all definitions;
- have not altered the content of the questionnaire in any manner;
- have reviewed and/or supplied full and complete responses to each question;
- have provided true, accurate and complete responses, including all attachments, if applicable;
- understand 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
- are 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		
Date		