

# LOG WALL RESTORATION

## BID SPECIFICATIONS



**Smith-Taylor Cabin Restoration, Taylor's Island  
EPF E 10029, Shelter Island, New York**

**JUNE 2012**

NOTE: There are Seven Components to this project:

- Roofing
- Framing
- Masonry
- Windows and Doors
- Log Wall Restoration
- Carpentry
- Painting

Bidders can submit bids for a single or for multiple components. If a bidder submits a bid for multiple components, the bidder must submit bids for those components on separate bid forms.

**Only one set of Architectural Plans and Specifications will be given to each bidder, regardless of the number of specifications picked up.**

## NOTICE TO BIDDERS

The **TOWN OF SHELTER ISLAND** (the “Town”) will receive sealed bids for:

**Smith-Taylor Cabin Restoration, Taylor's Island  
Log Wall Restoration Component  
EPF E 10029, Shelter Island, New York**

**Bids will be received until 3:00 p.m. on July 2, 2012** at the office of the Town Clerk, 38 N. Ferry Road, Shelter Island, New York at which time and place all bids will be publicly opened and read aloud.

Bidding Documents, including drawings and technical specifications, are on file at the office of the Town Clerk; 38 N. Ferry Road, Shelter Island, N.Y. Bidding Documents may be obtained on or after June 7, 2012. The successful bidder will be required to furnish and pay for satisfactory performance and payment bond or bonds.

**The site will be accessible to all bidders at a mandatory pre-bid site inspection on Friday, June 22, 2012 at 7:30 am to answer any questions. The Foundation will provide transportation back and forth to Taylor’s Island.** Contact P.A.T. Hunt, Taylor’s Island Foundation, at 631.749.1603, for arrangements.

Bidders are encouraged to make arrangements to visit the Island and Cabin prior to the mandatory meeting on June 22, 2012. Arrangements for this preliminary examination can be made beginning June 9, 2012 by contacting P.A.T. Hunt, Taylor’s Island Foundation, at 631.749.1603.

Attention is called to the fact that not less than the minimum salaries and wages as set forth in the Contract Documents must be paid on this project, and that the Contractor must ensure that employees and applicants for employment are not discriminated against because of their race, creed, sex, color, national origin or sexual orientation. The Contractor will be required to pay wages to laborers and mechanics at least equal to the wage rates as determined by, Davis Bacon Wage Rate No. NY 20100013, which rates shall be made a part of the Contract.

Federal Equal Opportunity and Labor Standards are applicable for all work performed under this Contract.

Funding for this project comes in part through an EPF Grant administered by the New York State Office of Parks, Recreation and Historic Preservation (OPRHP). Under Article 15A, Executive Law, the State of New York is committed to providing Minority and Women Owned Business (MWBE) equal opportunity to participate in government contracts. The following goals have been set for this project: 8% of the contract value for MBE’s and 7% of the contract value for WBE’s. The successful bidder may be required to furnish an EEO policy statement and reports

showing the participation of various business enterprises of subcontractors and suppliers on the contract.

The Town reserves the right to reject any or all bids and to waive any informalities in the bidding. Bids may be held by the Town for a period not to exceed forty-five (45) days from the date of the opening of bids for the purpose of reviewing the bids and investigating the qualifications of the bidders, prior to awarding the Contract.

**Smith-Taylor Cabin Restoration, Taylor's Island  
EPF E 10029, Shelter Island, New York**

**SPECIAL NOTE TO LOG WALL RESTORATION BIDDERS**

Attached please find the complete Architectural Specifications and Plans for the Smith-Taylor Restoration Project. Your proposal should address all items in the specifications book and contained in the plans as they relate to:

**LOG WALL RESTORATION**

**Special attention should be paid to the following areas:**

- 6.0 A-E      Repair of northeast corner. (In coordination with roofing contractor)
- 6.0 D        Examine condition of rubble trench foundation and repair/supplement as necessary (In coordination with masonry contractor)
- 6.0 G        Re-chinking: Jablonski Berkowitz Report available upon request.

**NOTE: You must work in close cooperation with the roofing, masonry, carpentry and windows & doors contractors.**

## **TOWN OF SHELTER ISLAND**

### **BID SPECIFICATIONS**

DATED: June 1, 2012

#### **1. PROJECT DESCRIPTION**

The Town of Shelter Island (the “Town”) is a municipal corporation under the General Municipal Law and the Town Law of the State of New York (the “State”), located in Suffolk County, New York.

The town has property known as Taylor’s Island, SCTM 0700-20-02-01. The property is 1.5 acres in size. It is surrounded by water except at times of low water. Land access is extremely limited for the following reasons: (1) land access is via a long, dirt, private road; (2) access must be made via a sand causeway that can bear only limited weight in order to protect its structural integrity from washing away; (3) the sand causeway is covered by water at high tides, so that it is accessible for only a few hours per day.

Bids are requested to perform the above-titled component to the project as described in the attached technical specifications.

NOTE: There are Seven Components to this project:

- Roofing
- Framing
- Masonry
- Windows and Doors
- Log Wall Restoration
- Carpentry
- Painting

Bidders can submit bids for a single or for multiple components. If a bidder submits a bid for multiple components, the bidder must submit bids for those components on separate bid forms.

NOTE: The proposed site is located on Shelter Island. Access to Shelter Island is by ferry. There are transportation costs associated with commuting to the Island. It is the responsibility of the Contractor to incorporate all traveling expenses including transport of the materials associated with the job in the bid. No additional travel expenses will be paid by the Town other than the contract bid amount. See section 7 for additional transportation requirements and specifications.

The contractor shall be responsible for compliance with applicable codes and regulations regarding this work. These include but are not limited to New York State, Suffolk County, Town of Shelter Island and OSHA. The Town has NYS DEC and Town of Shelter Island permits to construct.

**Funding for this project comes in part through an EPF Grant administered by the New York State Office of Parks, Recreation and Historic Preservation (OPRHP). Under Article 15A, Executive Law, the State of New York is committed to providing Minority and Women Owned Business (MWBE) equal opportunity to participate in government**

**contracts. The following goals have been set for this project: 8% of the contract value for MBE's and 7% of the contract value for WBE's. The successful bidder may be required to furnish an EEO policy statement and reports showing the participation of various business enterprises of subcontractors and suppliers on the contract.**

This project is in part funded by a grant from the NYS Office of Parks, Recreation and Historic Preservation through Title 9 of the Environmental Protection Act of 1993.

## **2. SCHEDULE**

There are multiple components of this project, including masonry, framing, roofing, log wall restoration, windows, carpentry and painting. The Town will be project manager and coordinate the various components. The work is expected to commence on August 1, 2012, with all components expected to be completed no later than October 15. A work schedule will be reviewed with all bidders prior to work commencing.

All work must be completed by the mutually agreed upon dates, unless the time is extended by mutual agreement OR to reflect an Act of God. A Contractor who fails to complete the work in the allotted time will be subject to a liquidated damages back charge of \$2,000 per day for each day beyond the allotted time, which will be withheld from the balance of the bid price. Bidders and the Town agree that this amount is the total value of liquidated damages for each day of noncompliance.

## **3. BIDDERS REPRESENTATION**

Each bidder by making his/her bid represents that:

- a) he/she has read and understands the Bidding Documents and his/her bid is made in accordance therewith.
- b) he/she has had the opportunity to attend the pre-bid site inspection on Friday, June 22, 2012, and has familiarized himself/herself with the local conditions under which the Work is to be performed.
- c) his/her Bid is based upon the materials, systems and equipment described in the Bidding documents without exception.

## **4. BIDDING DOCUMENTS**

- a) Bidders may obtain complete sets of documents only from the Shelter Island Town Clerk's Office, 38 North Ferry Road, Shelter Island, NY weekdays from 9:00 a.m. to 4:00 p.m. and on Saturdays from 9:00 a.m. to 12:00 Noon, between June 7 and June 29, 2012. Complete sets of Bidding Documents shall be used in preparing bids; the Town does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding documents.
- b) Bidders shall promptly notify the Town Clerk of any ambiguity, inconsistency or error which they may discover upon examination of the Bidding Documents or of the site and location of conditions.
- c) Any interpretation, correction or change of the Bidding Documents will be made by Addendum. Interpretations, correction or changes of the Bidding Documents made in any other manner will not be binding.

- d) The materials, products and methods described in the Bidding Documents establish a standard of required functions, dimensions, appearance and quality to be met by any proposed substitution.
- e) This property has been determined to possess historic (e.g., architectural, engineering, artistic) significance and is listed in the National Register of Historic Places. The contractor shall recognize that all aspects of the property may potentially contribute to this significance and the contractor shall not judge the relative significance of any features nor the impact of any and all proposed work. This responsibility shall rest solely with the architect. Consequently no deviations from the contract document shall be performed and no features of materials shall be altered, removed, reused or taken from the premises without the written approval of the architect as being consistent with the requirements of the contract documents. All work shall be consistent with The Secretary of the Interior's Standards for the Treatment of Historic Properties.
- f) No substitutions will be considered unless written request for approval has been submitted by the Bidder and has been received by the Town and the Architect at least 7 days prior to the date for receipt of bids. Each such request should include specifics regarding the proposed substitution. If the Town and Architect approve any proposed substitution, such approval will be set forth in an Addendum. Bidders shall not rely upon approvals made in any other manner.
- g) Addenda shall be mailed or delivered to all who are known by the Town to have received a complete set of Bidding Documents.
- h) Bids shall be submitted in duplicate in a sealed envelope and delivered to the Office of the Town Clerk, PO Box 1549, 38 N. Ferry Road, Shelter Island, NY 11964-1549.
- i) Bidders shall attach three favorable references and a list of applicable historic restoration work they have been involved with to their bid. References reflecting experience in historic renovation will be more highly rated.

## **5. BID SUBMISSION PERIOD**

Respondents must submit their Bids on or before 3:00 p.m. on Monday, July 2, 2012. The Town's governing body, the Town Board, expects to select a firm for the Project (the "Awardee") from among the respondents on Friday, July 20, 2012. Bidders shall submit a bid bond in the sum of One Thousand (\$1,000.00) Dollars which will be returned after award of bid and full execution of contract.

## **6. INQUIRIES AND SUBMISSION OF BIDS**

Questions about the Bid Specifications shall be directed to:  
Jay Card, Commissioner of Public Works  
Town of Shelter Island  
P.O. Box 1000  
Shelter Island, New York 11964-1000  
(631) 749-1090 (office)  
(631) 749-0931 (fax)  
Jcard@shelterislandtown.us (email)

## **7. WORK NOTES**

The Town will be responsible for obtaining building permits.

Due to the fragile nature of the Taylor's Island causeway, and a similar consideration for the private road leading to the causeway, access to Taylor's Island during construction by the bidder and bidder's agents by causeway is expressly forbidden with the exception of the initial delivery and final removal of Awardee's equipment. The Town of Shelter Island will accept orders of supplies for this project at the Town Highway Department, 34 N. Menantic Road, Shelter Island, but it is Awardee's responsibility to do the ordering and arrange the timing. The Town will transport the supplies to the job site upon 2 days advance notice by Awardee to Town.

Contractors and their employees would have to make arrangements for transportation to and from the Island during high tide. Arrangements can be made with local marina owners, boatyards, and possibly the Town for assistance with boat transportation.

Since many of the components of this project are interrelated, all bidders need to be aware of how their component interfaces with other components. They will need to adjust their work schedules to coordinate with other component Awardees.

All bidders should be advised that this is an isolated work site, so that workers should plan on staying on-site for the day. The building has a toilet facility which will be available for use by workers.

No tools or equipment are to be stored within the building. Awardee will need to make arrangements to have their own secure storage on the Island if needed (i.e. trailers for tools, equipment).

The Town and Foundation will provide an identified disposal area for construction debris and be responsible for the removal and costs. If the Awardee is able to arrange to discard its own debris, there will be no dump fee for material taken to the recycling center. All personal garbage generated by the contractors and their employees must be removed on a daily basis.

Work shall be completed in agreement in accordance with the attached Technical Specifications and Plans.

The work will not be considered completed until all debris, supplies and equipment have been removed from Taylors Island.

The bidder agrees to allow the Shelter Island Town Commissioner of Public Works, representatives of Andre Tchelistchef Architects, AIA, members of the Taylor's Island Committee, and directors of the Taylor's Island Foundation access to the work site for review of the construction and to insure compliance with the bid specifications and permit drawings.

Because Taylor's Island is an important part of Shelter Island's history, the bidder agrees to allow agents of the Town of Shelter Island, Andre Tchelistchef Architects, AIA and/or the Taylor's Island Foundation to record the progress of the work with still and motion photography and grants the Town and the Foundation and Architect permission to use any resultant captured images and sounds for any purpose.

The Town shall not unreasonably withhold acceptance of the subject work and shall notify bidder in writing, within two (2) calendar days after discovery, of any significant defect or fault in construction which constitutes the basis of the Town's potential or actual refusal to accept the subject work. If agreed upon by the bidder, in writing, the bidder shall have reasonable time, not to exceed fifteen (15) calendar days from receipt of notice of such defect from Town to correct such defect.

In the event the Town and the bidder are unable to agree that the reasons for refusing to accept the subject work constitute a fault or defect, the parties agree to immediately proceed to arbitration as hereinafter set forth.

All disputes, controversies or differences which may arise between the Town and the bidder out of, or in connection with the execution of this bid, or the breach thereof, shall be finally settled by arbitration, to which the Town and the bidder hereto agrees to be bound. It is mutually agreed that Shelter Island, New York, shall be designated as the place for the conduct of any such arbitration. In the event of any such dispute, controversy or difference, either party shall place the other party on written notice of his or its desire to arbitrate and shall select and identify an arbitrator. The other party shall, within fifteen (15) calendar days, reply in writing, selecting an arbitrator. Within fifteen (15) calendar days thereafter, the two arbitrators shall select a third arbitrator. Each party shall bear one-half the cost of the third arbitrator. The matter shall then be submitted to such "Arbitration Committee" composed of the three (3) arbitrators as defined above. The decision rendered by such "Arbitration Committee" shall be final and binding on the parties hereto.

## **8. PAYMENT SCHEDULE**

Payments to Awardee shall be made after approval of work by the Commissioner of Public Works, and the Architect and submission and processing of a voucher, upon completion of the following work:

- 50% upon execution of contract and submission of acceptable bonds and insurance
- 50% upon completion to the satisfaction of the Commissioner of Public Works

Contractor will be expected to submit a voucher for payment, which will be pursuant to the town payment process.

## **9. METHOD OF SELECTION OF AWARDEE**

Because this project is sensitive due to its proximity to wetlands and a private road, as well as being very time sensitive, the Town representatives will award the bid to the lowest responsible bidder who has:

- demonstrated relevant experience in performing historic renovations of comparable value and scope      20 points
- provided contact information for three favorable references      10 points
- has demonstrated history of completing quality work in a timely manner      10 points
- included donated work      10 points
- lowest bidder      50 points

## **10. RIGHT OF REJECTION BY THE TOWN**

Notwithstanding any other provisions of this bid specifications, the Town reserves the right, for any or no reason and in its sole and absolute discretion, to (1) amend, in whole or part, (2) withdraw or cancel these bid specifications, and (3) accept or reject any or all proposals prior to execution of the contract for the Project for any or no reason and with no penalty to the Town.

## **11. INSURANCE REQUIREMENTS**

Work at this project requires certain insurance coverages as set forth below and in the draft contract attached hereto:

- a) Workers Compensation Insurance as required by law.
- b) Comprehensive General Liability Insurance in limits of \$1,000,000 for each person, \$1,000,000 for property damage, \$1,000,000 for each occurrence and \$1,000,000 aggregate. The Town should be named as additional insured on said policy.
- c) Automobile liability insurance in limits of \$1,000,000 each person, \$1,000,000 each accident shall be carried in connection with the ownership, maintenance or use of any owned, non-owned or hired vehicles.

The Awardee must submit for review insurance certificates for review by the Town prior to commencement of any work on this project. The certificate must name the Town of Shelter Island and the Taylors Island Foundation as additional insureds.

The Awardee shall bear the risk of loss or damage from any cause whatsoever to: builders' machinery, tools, equipment, temporary structures and any equipment of like nature used or to be used by the Awardee, his agents, subcontractors, material suppliers or their employees in the performance of this contract or any modifications thereof.

## **12. BONDS**

Performance Bond and Payment Bond. The Contractor shall furnish a Performance Bond and a Labor and Material Payment Bond, each in the amount equal to the bid price, as surety for the faithful performance on the Contract, and for the payment of all persons performing labor or furnishing equipment or materials for this Contract. Each bond must be in a form acceptable to the Town and from a surety company acceptable to the Town. The surety company must be authorized to transact business in New York State.

## **13. ATTACHMENTS**

- a) Non-Collusive Bidding Certification
- b) Bid Form
- c) Standard Clauses for all New York State Contracts
- d) Appendix A1, clauses required by Office of parks, Recreation and Historic Preservation
- e) Prevailing Wage Rate Schedule
- f) EEO Policy Statement
- g) MBE/WBE Utilization plan – must be submitted with the bid
- h) Technical Specifications (including Addendum)
- i) Project Plans

**BID FOR**  
**Smith-Taylor Cabin Restoration Project, Taylor's Island**  
**Log Wall Restoration Component**  
**EPF E 10029, Shelter Island, New York**

Pursuant to and in compliance with your advertisement for Bids and the Instructions to Bidders relating thereto, the undersigned hereby proposes to furnish all vehicles, equipment, implements, labor and services necessary for the **LOG WALL RESTORATION on Taylor's Island**, Shelter Island, New York in accordance with the bid specifications hereto at the price set forth below:

**Name of Bidder:** \_\_\_\_\_  
(individual, firm, or corporation as the case may be)

**Proposed price for completion of all work described in bid specifications:**

\_\_\_\_\_.

**Proposed description and value of Donated Work (if any):** \_\_\_\_\_

\_\_\_\_\_

**Bidder is required to attach three favorable references and a list of restoration projects completed to this bid. References reflecting experience in historic renovation will be more highly rated.**

**Bidder is required to submit a bid bond of One Thousand (\$1,000.00) Dollars with this bid. The Bid Bond will be returned after award of bid and full execution of contract, insurance and performance and labor and material bonds per specifications.**

**DATED:** \_\_\_\_\_, 2012

**Respectfully submitted by**

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

**Name (print)** \_\_\_\_\_

**Title** \_\_\_\_\_

**Business Name & Address:**

\_\_\_\_\_

\_\_\_\_\_

**Phone:** \_\_\_\_\_

**Suffolk Contractor License #** \_\_\_\_\_

**Email:** \_\_\_\_\_

### **Non-Collusive Bidding Certification**

By signing this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury that to the best of their knowledge and belief:

The prices in this bid have been arrived at independently, without collusion, consultation, communication or agreement for the purpose of restricting competition as to any matter relating to such prices with any other bidder or with any other competitor;

Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to the opening directly or indirectly, to any other bidder or to any competitor; and

No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

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

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

Firm: \_\_\_\_\_

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

**PLEASE REMEMBER! The Utilization Plan and/or Waiver Request Form, with applicable supplementary documentation, must be submitted with the bid.**

# CONTRACT

THIS AGREEMENT is by and between the Town of Shelter Island, PO Box 970, Shelter Island, New York (hereinafter called TOWN) and \_\_\_\_\_, PO Box \_\_\_\_, \_\_\_\_\_, NY (hereinafter called CONTRACTOR). Refer to the signature page for the effective date of the Agreement.

TOWN and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

## Article 1. **WORK**

The Project for which the Work under the Contract Documents may be the whole or only a part is titled as follows:

**Smith-Taylor Cabin Restoration Project, Taylor's Island  
Log Wall Restoration Component  
EPF E 10029, Shelter Island, New York**

CONTRACTOR shall complete all Work as specified or indicated in the Specifications, Plans and Contract Documents for the above-referenced contract.

## Article 2. **SUPERVISION**

The Project will be managed by Commissioner of Public Works Jay Card or his designee, who is hereinafter called COMMISSIONER OF PUBLIC WORKS and who is to act as TOWN'S representative and assume all duties and responsibilities in connection with completion of the Work in accordance with the Contract documents.

## Article 3. **CONTRACT TIME**

3.1 The work will be completed as follows:

There are multiple components of this project, including masonry, framing, roofing, log wall restoration, windows and carpentry. The Town will be project manager and coordinate the various components. The work is expected to commence on August 1, 2012, with all components expected to be completed no later than October 15. All work must be completed by the mutually agreed upon dates, unless the time is extended by mutual agreement OR to reflect an Act of God. A Contractor who fails to complete the work in the allotted time will be subject to a liquidated damages back charge of \$2,000 per day for each day beyond the allotted time, which will be withheld from the balance of the bid price. Bidders and the Town agree that this amount is the total value of liquidated damages for each day of noncompliance.

## Article 4. **CONTRACT PRICE**

4.1 TOWN shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents in current funds as set forth below, and more specifically, as set forth in the bid documents:

AWARD \$ \_\_\_\_\_

#### Article 5. **PAYMENT PROCEDURES**

5.1 Payment will be made upon final completion and acceptance of the Work by the Commissioner of Public Works and the Architect, and submission and processing of required documentation pursuant to the following schedule: to be modified depending on component—  
50% upon execution of contract and submission of bonds and insurance  
50% upon completion to the satisfaction of the Commissioner of Public Works

5.2 CONTRACTOR shall submit Application for Payment together with a signed voucher. Applications for payment will be processed by Commissioner of Public Works for appropriateness of payment, before being sent to the town accounting department for payment, if appropriate.

#### 5.3 The Town's Right to Withhold Payments

The Town may withhold from the Contractor any monies it deems necessary in order to:

- (a) Assure the payment of just claims then due any persons supplying labor or materials for the work;
- (b) Protect the Town from loss due to defective equipment and materials not remedied, should Contractor have been given notice and not responded;
- (c) Compensate the Town as liquidated damages for work not completed within the timeframe;
- (d) Assure compliance with prevailing law.

The Town has the right to apply any amounts withheld in any manner it deems proper to satisfy such claims or to secure such protection, after Notice to the Contractor.

#### Article 6. **CONTRACTOR'S REPRESENTATIONS**

6.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

6.2. CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all reports, plans, investigations and studies which pertain to the physical conditions at the site or otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, studies or similar information or data are or will be required by CONTRACTOR for such purposes.

6.3 CONTRACTOR has given the Commissioner of Public Works written notice of all conflicts, errors or discrepancies that he/she has discovered in the Contract Documents and the written resolution thereof by TOWN is acceptable to CONTRACTOR.

#### Article 7. **CONTRACT DOCUMENTS**

The Contract Documents which comprise the entire agreement between TOWN and CONTRACTOR concerning the Work consist of the following:

- 1 - This Contract;
- 2 – Notice of Award, Notice to Proceed;
- 3 – Specifications for bid, including Plans and Technical Specifications;
- 4 – Contractor's Bid;
- 5 – Performance and Payment bonds.

#### Article 8. **MISCELLANEOUS**

8.1 In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing of the Town. Any attempts to assign the contract without the Town's written consent are null and void. The Contractor may, however, assign its right to receive payment without the Town's prior written consent.

8.2 In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers Compensation Law.

8.3 To the extent required by Article 15 of the Executive Law and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 22-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract.

8.4 Neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements,

including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

8.5 TOWN and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

## **Article 9. INSURANCE AND LIABILITY**

The CONTRACTOR shall not begin any work until it has obtained, and TOWN has approved, all the insurance and bonds required under this Contract. Furthermore, the CONTRACTOR shall maintain the required insurance during performance of the Contract. The required insurance includes the following types of insurance in the amounts indicated:

9.1 WORKER'S COMPENSATION INSURANCE in accordance with the Laws of the State of New York. Worker's Compensation Insurance must cover all of the Contractor's employees employed in performing the Contract for the life of the Contract. If any work is sublet, the CONTRACTOR shall require the subcontractor to provide Worker's Compensation Insurance for all of the subcontractor's employees employed at the Landfill unless such employees are covered by the Worker's Compensation Insurance of the CONTRACTOR.

9.2 COMPREHENSIVE GENERAL LIABILITY INSURANCE, including Premises and Operations Liability, Contractor's Protective Liability and Completed Operations and Product Liability, to protect the CONTRACTOR and any subcontractor performing work in connection with this Contract from claims for damages for personal injury (bodily injury , sickness or disease, including any resulting death, as well as injury claimed to be sustained resulting from false arrest, detention, and/or imprisonment, malicious prosecution, libel, slander and/or defamation of character, invasion of privacy, wrongful eviction and/or wrongful entry), and from claims for property damage which may arise from operations connected with this Contract during the life of this Contract, whether such operations be by the Contractor or by any subcontractor or by anyone directly or indirectly employed by either of them. The Comprehensive General Liability Insurance must name the Town of Shelter Island as an "additional insured" for any and all loss and/or damage arising out of the performance of the contract, with a combined single limit (bodily injury/property damage) of One Million (\$1,000,000) Dollars. All such policies must provide a minimum of thirty (30) days notice to the Town of cancellation or nonrenewal, by certified or registered mail. All insurance companies shall be licensed in the State of New York.

9.3 The Town of Shelter Island and the Taylor's Island Foundation, including their agents, officers and employees, shall be named additional insureds under each of the policies required herein. Any contracted engineers and/or consultants shall be deemed agents of the Town for the purpose of being included as named insured under these policies.

9.4 The CONTRACTOR shall furnish the TOWN with a copy of all insurance policies, each of which must contain the following provision:

“Such insurance shall not be cancelled, terminated, modified or changed by either Contractor or Insurance Company, except on minimum 30 day's prior written notice sent by the Insurance Company via registered mail to the Town, attention of Town Clerk.”

9.5 All insurance companies providing the coverage required hereunder must be licensed in the State of New York.

9.6.1 In case any action at law or suit in equity is brought against the TOWN or any of its officers, agents and employees, on account of the failure, omission or neglect of the CONTRACTOR, its subcontractor, employees or agents to perform under this Contract, or on account of any injury to property or persons, caused by the alleged negligence of the CONTRACTOR, its subcontractors, employees or agents, including but not limited to any claims, actions, liabilities or penalties, losses or remedial actions under any federal, state or local laws relating to protection or clean up of the environment, the CONTRACTOR shall immediately assume the defense of such actions or proceedings as if the actions or proceedings had been brought directly against the CONTRACTOR.

9.6.2 The CONTRACTOR shall indemnify and hold harmless the TOWN, its officers, agents and employees from any and all liability, costs or losses arising from such claims as described above, including but not limited to reasonable attorneys' fees, court costs and costs of investigation. The CONTRACTOR shall also indemnify and hold harmless the TOWN, its officers, agents and employees, (including all contracted consultants) for any and all loss, costs and/or damage which may arise from actions or proceedings brought directly against the CONTRACTOR, so long as same are not due solely to the negligence of the TOWN.

9.6.3 The CONTRACTOR shall give prompt notice to the TOWN of any claims, actions, liabilities or losses as described in this Article. The CONTRACTOR shall provide the TOWN with access to its employees, agents, property (both real and personal) and records for purposes of this indemnity.

9.6.4 The TOWN reserves the right to retain counsel of its choice at its own expense, or in the alternative, to approve counsel obtained by the CONTRACTOR at CONTRACTOR'S expense.

## **ARTICLE 10. PERFORMANCE AND PAYMENT BONDS**

10.1 Performance Bond and Payment Bond. The Contractor shall furnish a Performance Bond and a Labor and Material Payment Bond, each in the amount equal to the bid price, as surety for the faithful performance on the Contract, and for the payment of all persons performing labor or furnishing equipment or materials for this Contract. Each bond must be in a form acceptable to the Town and from a surety company acceptable to the Town. The surety company must be authorized to transact business in New York State.

10.2 Additional or Substitute Bond. If at any time the Town becomes dissatisfied with any surety upon the bonds, or, if for any other reason, such bonds cease to be adequate security to the Town, the Contractor shall substitute an acceptable bond in a form and sum satisfactory to the Town and signed by a new surety satisfactory to the Town. The premiums on the substitute bond shall be paid by the Contractor.

## **ARTICLE 11. FINAL INSPECTION AND PAYMENT**

11.1 Upon written notice from CONTRACTOR that the entire work or an agreed portion thereof is complete, the Commissioner of Public Works will promptly make a final inspection with CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as necessary to complete such work or remedy such deficiencies.

11.2 After CONTRACTOR has, in the opinion of the Commissioner of Public Works, satisfactorily completed all corrections identified in the final inspection, CONTRACTOR may make application for final payment.

## **ARTICLE 12. LIENS**

12.1 If at any time before final payment has been made, a person, firm or corporation, claiming to have performed any labor or furnished any equipment or material for the performance of this Contract, has filed with the TOWN a notice as described in and in accordance with the Lien Law of the State of New York, the TOWN shall retain the amount claimed in such notice, together with the reasonable costs of any action or actions brought or which may be brought to enforce said lien, from the monies due or to become due under this Contract. The TOWN will retain these monies until the lien is discharged pursuant to law.

## **Article 13. CLEAN UP**

13.1 During the performance and at the termination of the Contract, the CONTRACTOR shall remove all demolition items, refuse, rubbish, garbage, scrap material, debris and other objectionable material caused by its and the subcontractor's operations, with the exception of the debris placed in the designated disposal area. All personal garbage generated by the contractors and their employees must be removed on a daily basis.

13.2 The job site and outside areas assigned for the CONTRACTOR'S use shall be left in an orderly and clean condition at the completion of all work under this Contract.

## **Article 14. TERMINATION**

14.1 The Town has the right to stop work or terminate the contract for cause if:

- (a) The Contractor is adjudged bankrupt or makes an assignment for the benefit of creditors:
- (b) A receiver or liquidator is appointed for the Contractor for any of his property:
- (c) The Contractor, after notice of warnings from the Town, does not furnish adequate skilled workmen or proper equipment or materials:
- (d) The Contractor does not, in the opinion of the Commissioner of Public Works, which opinion is affirmed by the Town Board, prosecute the Work, or any part of it, with diligence during the Contract period, including any authorized extension:
- (e) The Contractor does not make prompt payment to persons supplying labor or materials for the work:

(f) The Contractor does not comply with any laws, ordinances, rules or provisions governing this contract, or the instructions of the Commissioner or is otherwise in violation of any provisions of this contract: or

(g) If the Contractor is in violation of any law, rule, regulation, judicial or administrative order, which the Town Board reasonably deems to affect the faithful performance of this contract:

(h) The Contract is assigned by the Contractor in a way not specified in the Contract.

14.2 The TOWN shall also have the right to terminate the contract for convenience. In such case, CONTRACTOR shall be paid for completed work, for expenses sustained prior to the effective date of termination, and for reasonable expenses directly attributable to termination.

#### Article 15. **CONTROLLING LAW**

15.1 This Contract is to be governed by the law of New York State.

IN WITNESS WHEREOF the parties have duly executed this Agreement in duplicate originals the date and year first above written. This Agreement will be effective on the later date of the signatures below.

**TOWN:** Town of Shelter Island

**CONTRACTOR**

By\_\_\_\_\_

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

Title\_\_\_\_\_

Title\_\_\_\_\_

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

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

(if corporation, affix corporate seal)

Attest:

\_\_\_\_\_  
Town Clerk

## **STANDARD CLAUSES FOR NYS CONTRACTS**

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are

required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually

agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.** In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the

foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the

provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the

subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.**

In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
30 South Pearl St -- 7th Floor  
Albany, New York 12245  
Telephone: 518-292-5220  
Fax: 518-292-5884  
<http://www.empire.state.ny.us>

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
30 South Pearl St -- 2nd Floor  
Albany, New York 12245  
Telephone: 518-292-5250  
Fax: 518-292-5803  
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and

has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS.**

Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

**22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.**

If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

## APPENDIX A1

### Clauses Required by Office of Parks, Recreation and Historic Preservation

1. Changes to Budget and Program Workplan. Changes shall not be made in the work described in the Program Workplan as described in Appendix D or the proposed expenditure of funds as shown in the Budget, Appendix B, without the prior written approval of the STATE. Such approval will be granted if the changes are not substantive and do not alter the scope, intent or basic elements of the contract. Changes may be made in the Budget to reallocate funds between budget items provided such changes do not exceed twenty percent of the total value of the contract and have the STATE's written approval. Changes in the Program Workplan which are substantive or alter the scope, intent or basic elements of the contract, or Budget changes which are in excess of twenty percent of the total value of the contract, if agreed to by the STATE, will be implemented by an amendment to this AGREEMENT. (See Section I, Paragraph D of the AGREEMENT).
2. Termination.
  - A. In the event the project cannot be completed as agreed upon by the STATE and the CONTRACTOR, the CONTRACTOR shall bring it to a point of recreational usefulness agreed upon by the STATE and the CONTRACTOR.
  - B. The CONTRACTOR agrees that the benefit to be derived by the United States, the State of New York and the CONTRACTOR from compliance with the terms of this agreement is the preservation, protection and net increase in the availability and quality of public outdoor recreation facilities and resources available to the people of the United States, the State of New York and the CONTRACTOR and such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished under this agreement. Further, payment to the STATE of an amount equal to the amount of money made available under this agreement would be inadequate compensation for any breach by the CONTRACTOR of this agreement. Therefore, the appropriate remedy in the event of a breach of this agreement by the CONTRACTOR shall be the specific performance of this agreement.
3. Participation by New York State Businesses and Minority Group Members and Women with Respect to State Contracts; Omnibus Procurement Act. It is the policy of New York State to maximize opportunities for the participation of minorities and women as employees, and of New York State business enterprises, as subcontractors and suppliers on its procurement contracts.
  - A. Omnibus Procurement Act Provisions.
    - I. Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division of Small Business  
30 South Pearl Street  
Albany, NY 12245  
Phone: (518)-292-5250 / FAX (518)-292-5803

Note: When requesting lists of potential subcontractors and suppliers please identify the SIC code, size and location of vendors.
    - II. If located in a foreign country the contractor is hereby notified that New York State may seek to obtain and assign or otherwise transfer offset credits created by this contract to third parties located in New York State. The contractor agrees to cooperate with the State in efforts to get foreign countries to recognize offset credits created by this contract.
  - B. Equal Employment Opportunity Provisions.
    - I. The CONTRACTOR and its subcontractors shall undertake or continue existing programs of affirmative action 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, affirmative action 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.
    - II. No later than seven days after being notified of the award of this contract the CONTRACTOR shall submit an Equal Employment Opportunity (EEO) policy statement to the STATE.

III. The CONTRACTOR's EEO policy statement shall contain, but not necessarily be limited to, and the CONTRACTOR, as a precondition to entering into a valid and binding State contract, shall, during the performance of the contract, agree to the following:

- a. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts.
- b. The CONTRACTOR shall state in all solicitations or advertisements for employees that, in performance of this contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- c. At the request of the STATE the CONTRACTOR shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the CONTRACTOR's obligation herein.

IV. No later than seven days after being notified of the award of this contract the CONTRACTOR may be required to submit to the STATE a staffing plan of the anticipated work force to be utilized on this contract or, where required, information on the CONTRACTOR's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal Occupational Categories or other appropriate categories specified by the STATE. The form of staffing plan shall be supplied by the STATE.

V. On a schedule to be determined by the STATE, and in a form and manner required by the STATE, the CONTRACTOR shall submit to the STATE a work force utilization report, of the work force actually utilized on this contract, broken down by specified ethnic background, gender, and Federal Occupational Categories or other appropriate categories specified by the STATE. The form of the staffing plan shall be supplied by the STATE.

VI. The CONTRACTOR shall include the language of sub-paragraphs (I) through (V) in every subcontract in such a manner that the requirements of the provisions will be binding upon each subcontractor as to work in connection with this contract, including the requirement that subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and, when requested, provide to the CONTRACTOR information on the ethnic background, gender, and Federal Occupational Categories of the employees to be utilized on this contract.

VII. The CONTRACTOR agrees to comply with all applicable Federal, State and local Civil Rights and Human Rights laws with reference to equal employment opportunities and the provision of services.

C. Minority/Women Owned Business Enterprise Provisions.

I. A directory of minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Minority and Women's Business Development Division  
One Commerce Plaza  
Albany, NY 12245  
Phone: (518) 474-7756 / Fax: (518) 486-6416

II. Definition. For the purposes of these clauses, the following definitions shall apply:

- a. "Certified business" shall mean either a business certified as a minority or women-owned business enterprise pursuant to section 314 of the Executive Law.
- b. "Director" shall mean the Director of the Division of Minority and Women's Business Development established by section 311 of the Executive Law.

- c. "Minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:
  - (1) Black persons having origins in any of the Black African racial groups;
  - (2) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;
  - (3) Native American or Alaskan native persons having origins in any of the original peoples of North America;
  - (4) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.
- d. "Minority-owned business enterprises" shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is:
  - (1) at least fifty-one percent owned by one or more minority group members;
  - (2) an enterprise in which such minority ownership is real, substantial and continuing;
  - (3) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
  - (4) an enterprise authorized to do business in this state and independently owned and operated.
- e. "Subcontract" shall mean an agreement providing for total expenditures in excess of \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon between a contractor and any individual or business enterprise, including a sole proprietorship, partnership, corporation or not-for-profit corporation, in which a portion of a contractor's obligation under a state contract is undertaken or assumed.
- f. "Women-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is:
  - (1) at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women;
  - (2) an enterprise in which the ownership interest of such women is real, substantial and continuing;
  - (3) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
  - (4) an enterprise authorized to do business in this state and independently owned and operated.

### III. Utilization Program Waivers.

- a. If goals have been established by the STATE for the participation of certified M/WBE's on this agreement, at the direction of the STATE, but in no case later than execution of the agreement, the contractor shall submit to the STATE a utilization program on forms to be provided by the STATE. The utilization program shall list all subcontractors and suppliers the contractor intends to use on the contract and indicate which are certified M/WBE's.
- b. The STATE will review the utilization program and will issue to the contractor a written notice of acceptance or deficiency within twenty days of receipt. A notice of deficiency shall include:
  - (1) the name of any M/WBE which is not acceptable for the purpose of complying with M/WBE participation goals;
  - (2) elements of the contract scope of work which the STATE has determined can be reasonably structured by the contractor to increase the likelihood of participation of M/WBE's; and
  - (3) other information which the STATE determines to be relevant to the utilization program.

- c. The contractor shall respond to the notice of deficiency within seven days of receipt by submitting to the STATE a written statement which remedies the deficiencies in the original plan. If the written remedy which the contractor submits is not timely or is found by the STATE to be inadequate, the STATE shall so notify the contractor within five days and direct the contractor to submit a request for a partial or total waiver of M/WBE participation goals on forms to be provided by the STATE. The request for waiver must be submitted within five days of the contractor's receipt of a notice that the statement of remedy was untimely or inadequate.
- d. A contractor who has made good faith efforts to obtain commitments from M/WBE subcontractors and suppliers prior to submitting its utilization program may request a waiver at the same time it submits its utilization program. If a request for waiver is submitted with the utilization program, and is not accepted by the STATE at that time, the provisions of clauses (b) and (c), regarding the notice of deficiency and written remedy will apply. In this case, the contractor may submit a second request for waiver as directed by the STATE.
- e. If the contractor does not submit a request for waiver, or if the STATE determines that the utilization program does not indicate that the M/WBE participation goals will be met and that the good faith efforts of the contractor have been inadequate to justify the granting of the request for waiver, the STATE shall terminate the contract, or if the contract has not been executed, the STATE shall withdraw from contract negotiations. Notice of termination or withdrawal, along with a denial of a request for waiver, where applicable, shall be delivered to the contractor no later than twenty days after the STATE receives the request for waiver.
- f. The contractor shall attempt to utilize, in good faith, any MBE or WBE identified within its utilization program, at least to the extent indicated in the program.

#### IV. Administrative Hearing on Disqualification of Contractor.

- a. If the STATE disqualifies the contractor on the ground that the contractor has failed to remedy deficiencies in its utilization program or document good faith efforts to remedy such deficiencies, the contractor shall be entitled to an administrative hearing, on the record, before a hearing officer appointed by the STATE, to review the determination of disqualification of the contractor.
- b. The hearing officer's determination shall be a final administrative determination of the STATE and shall be reviewable by a proceeding brought pursuant to the Civil Practice Law and Rules, provided such proceeding is commenced within thirty days of notice given by certified mail, return receipt requested, rendering such final administrative determination in accordance with the provisions of section 313 of the Executive Law.
- c. Such review shall be commenced in the Supreme Court, Appellate Division, Third Department, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Appeals taken to the Court of Appeals of the State of New York shall be subject to the same preference.

#### V. Good Faith Efforts. In order to show that it has made good faith efforts to comply with the M/WBE participation goals of this contract, the contractor shall submit such documentation as will enable the STATE to make a determination in accordance with the following criteria:

- a. Did the contractor submit a completed, acceptable utilization program and EEO program aimed at meeting the goals for the participation of minorities and women in the contract?
- b. Did the contractor place advertisements in appropriate general circulation, trade and minority or woman-owned publications in a timely fashion?
- c. Did the contractor make written solicitations to women and minority-owned business enterprises listed in the directory of certified businesses in a timely fashion and include plans, specifications and contract terms? Did the businesses solicited respond in a timely fashion?
- d. Could the contractor have reasonably structured the work to be performed under subcontracts so as to increase the likelihood of participation by certified businesses?
- e. Did the contractor attend any prebid or preaward meetings scheduled by the STATE with M/WBE's which

the STATE determined were capable of performing work or supplying materials on the contract?

- f. Were the subcontract terms and conditions offered to M/WBE's comparable to those offered in the ordinary course of the contractor's business to other subcontractors on the contract?
- g. Did the contractor make payments to M/WBE subcontractors and suppliers in a timely fashion?

VI. Reports. The contractor shall submit, and shall require subcontractors to submit, reports showing the participation of all business enterprises on this contract, including minority and women-owned business enterprises on forms and at intervals to be established by the STATE. Reports not submitted at such times as shall be required by the STATE shall be cause for the STATE to delay implementing scheduled payments to the contractor.

VII. Contractor's Failure or Inability to Meet M/WBE Participation Goals.

- a. If the contractor, after making good faith efforts, is unable to comply with a contract's M/WBE participation goals, the contractor may submit a request for a partial or total waiver on forms provided by the STATE. If the documentation required with the request for a waiver is complete, the STATE shall evaluate the request and issue a written notice of acceptance or denial within twenty days of receipt.
- b. If the STATE, upon review of the contractor's utilization program and compliance reports, determines that the contractor is failing or refusing to comply with M/WBE participation goals, and no waiver has been issued in regards to such non-compliance, the STATE may issue a notice of deficiency to the contractor. The contractor must respond to the notice within seven days of receipt. This response may include a request for partial or total waiver of M/WBE participation goals.

VIII. Contractor and Agency Complaints, Arbitration.

- a. If the contractor submits a request for a waiver of M/WBE participation goals and the STATE denies the request or fails to respond within twenty days of receiving it, the contractor may file a complaint with the Director according to the provisions of section 316 of Article 15-A of the Executive Law. The complaint must be filed within twenty days of the STATE's receipt of the request for waiver, if the STATE has not responded in that time, or within twenty days of a notification that the request has been denied by the STATE.
- b. If the contractor fails to respond to a notice of deficiency, the STATE may file a complaint with the Director pursuant to section 316 of Article 15-A of the Executive Law.
- c. A complaint shall set forth the facts and circumstances giving rise to the complaint together with a demand for relief.
- d. The party filing a complaint, whether the contractor or the STATE, shall deliver a copy to the other party. Both the complaint and the copy shall be delivered by either personal service or by certified mail, return receipt requested.
- e. Upon receipt of a complaint, the Director shall provide the party against whom the complaint has been filed with an opportunity to respond to the complaint. If within thirty days of receipt of the complaint, the Director is unable to resolve the complaint to the satisfaction of the STATE and the contractor, the complaint shall be referred to the American Arbitration Association for resolution pursuant to section 316 of Article 15-A of the Executive Law and the applicable requirements of Article 75 of the Civil Practice Law and Rules.
- f. Upon conclusion of the arbitration proceedings, the arbitrator will submit to the Director his or her award regarding the alleged violation of the contract or the refusal of the STATE to grant a waiver request by the contractor. The award of the arbitrator with respect to an alleged violation of the contract or the refusal of the state agency to grant a waiver shall be final and may be vacated or modified only as provided by Article 75 of the Civil Practice Law and Rules.
- g. Upon conclusion of the arbitration proceedings and the rendition of an award, the arbitrator will also recommend to the Director a remedy, including, if appropriate, the imposition of sanctions, fines or penalties. The Director will either;

- (1) adopt the recommendation of the arbitrator;

- (2) determine that no sanctions, fines or penalties should be imposed; or
  - (3) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or imposed by any new sanction, or increase the amount of any recommended fine or penalty.
- h. The Director, within ten days of receipt of the arbitrator's award and recommendations, will file a determination of such matter and shall cause a copy of such determination to be served upon the parties by personal service or by certified mail, return receipt requested. The determination of the Director as to the imposition of any fines, sanctions, or penalties shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules.
  - i. The determination of the STATE or the contractor to proceed with a complaint shall not preclude the STATE, in its discretion, from pursuing any other remedies which it may have pursuant to law and the contract.

IX. Subcontracts. The contractor will include the provisions of sub-paragraphs (v) and (viii) above in every subcontract, as defined in sub-paragraph 2, in such a manner that such provisions will be binding upon the subcontractor as to work in connection with this contract.

- 4. Non-Discrimination. The CONTRACTOR shall not limit access or discriminate in the operation of the facilities against any person on the basis of place of residence, race, creed, color, national origin, sex, age, disability or marital status.

## **NYS OFFICE OF PARKS RECREATION AND HISTORIC PRESERVATION MINORITY AND WOMEN'S BUSINESS REQUIREMENTS**

To Prospective Bidders:

Consistent with New York State Office of Parks, Recreation and Historic Preservation (OPRHP) commitment, and in accordance with Article 15-A of the New York State Executive Law, contractors are required to ensure that good faith efforts are made to include meaningful participation by Minority and Women-Owned Businesses (MWBE) in the OPRHP construction program. The requirements apply to all "State" funded contracts. Funding for this project comes in part through an Environmental Protection Fund (EPF) grant. The intent of the program is to encourage and assist in developing business relationships between Prime Contractors and M&WBE subcontractors and suppliers. Contractors must be diligent and creative in order to develop a Utilization Plan that complies with the program. By submission of this Utilization Plan, the Contractor commits to the value included in the plan for participation by Minority and Women-owned businesses. OPRHP will review the plan and notify the Contractor of any deficiencies contained in the plan. A copy of the Utilization Plan will be returned to the Contractor after acceptance. OPRHP may require the Contractor to provide documentation of the efforts made by a Contractor to develop this plan.

**The Contractor, by bidding on this project acknowledges understanding and support of this policy and pledges to fully cooperate with the Town of Shelter Island in meeting State requirements set forth in these bidding and contract documents.**

Minority and Women Owned Business Enterprise (MWBEs) on this project the State has set the following goals for the participation of certified minority and women owned business:

|                                |                                 |
|--------------------------------|---------------------------------|
| <b>Minority Owned Business</b> | <b>8% of the contract value</b> |
| <b>Women Owned Business</b>    | <b>7% of the contract value</b> |

For many projects, it is necessary to include the cooperation of principal subcontractors for a meaningful utilization plan. In the selection of principal subcontractors, the Prime Contractor should consider subcontractors who demonstrate efforts to assist with program requirements. Although responsibility for program compliance is with the Prime contractor, the Contract Documents require that all subcontractors also comply with the contract provisions. An inability to meet goals when subcontractor cooperation is not present does not excuse the Prime Contractor from the responsibility.

**Firms must be certified by New York State as a Minority or Women-Owned Business to comply with program requirements.** Certified firms are included in a Directory of Certified Minority and Women-Owned Business Enterprises. This Directory is provided on the Internet and the address is: <http://nylovesmwbe.ny.gov/index.htm>. You may contact the Empire State Development Corporation at (518) 292-5250.

Following are suggestions for good faith efforts that will be helpful for contractors both during and after the bidding period. These suggestions compliment the Appendix A1, Affirmative Action of the Contract Documents which further outlines good faith efforts. In order for good faith efforts to be effective, contractors (Grantee) should begin plan development during prebid.

### **Receipt of the M&WBE Utilization Plan is required to the NYS Regional Office at Bid Opening.**

- Receipt of OPRHP MWBE Utilization Plan Form (UP-1) must be submitted with their bid. The firm/s proposed are businesses the bidder seriously expects to include in the project activity. A letter of explanation and documentation of efforts shall accompany an M&WBE Utilization Plan that falls short of the stated goals. **Failure to submit this form could result in disqualification.**
- It is the responsibility of the contractor to inform "OPRHP" of changes, additions or deletions to the accepted Utilization Plan and to provide supporting documentation for such.
- EEO Policy Statement – Bidders must complete the EEO Policy Statement and include it with their bid.

Article 15A

EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

It is the policy of the \_\_\_\_\_ (name of organization) to provide equal employment opportunity to all people without regard to race, color, sex, religion, age, national origin, disability, sexual preference, or Vietnam Era Veteran status. As head of this organization I am personally committed to assuring that we will act affirmatively to develop avenues of entry and mobility for minorities, women, individuals with disabilities, and Vietnam Era Veterans through the following activities:

- Development of programmatic approaches to the elimination of all unjust exclusionary employment practices, policies and consequences;
- Development of educational and training programs for all employees, with emphasis on our goals for upgrading minorities, women, individuals with disabilities and Vietnam Era Veterans;
- Development of personnel practices, policies and career ladders to assist and encourage upward mobility of employees restricted to lower levels;
- Development of mechanisms for swift and judicious resolution of complaints of discrimination consistent with our policy, and other applicable statutes; and
- Provision of reasonable accommodations to enable qualified individuals with disabilities to enjoy equal employment opportunities and equal terms, conditions and privileges of employment.

To effectuate this policy, we have designed a plan which conforms with all relevant Federal and State non-discrimination laws and regulations including but not limited to: The Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act, the Vietnam Era Veteran's Readjustment Act of 1974, and the New York State Human Rights Law. The plan applies to all job classifications and titles in this organization's jurisdiction and it governs all our employment policies, practices and actions including, but not limited to: recruitment, hiring, discipline, rate of pay or other compensation, advancement, reclassification, reallocation, promotion, demotion, discharge and employee benefits. I will see that the Affirmative Action Office is provided with all available resources necessary for the execution of its program responsibilities. Moreover, all managers, supervisors, and employees must make consistently diligent efforts to implement this policy in day-to-day program and employment decisions. Affirmative Action considerations will be an integral part of all organizational activities performed in the furtherance of our mission and in meeting our responsibilities to the State's citizens.

---

(Print/Type CEO Name)

---

(CEO Signature & Date)



## UPG – 1 FORM INSTRUCTIONS

INSTRUCTIONS: This form is to be used to report all subcontractors and suppliers utilized by the Prime Contractor. This form is to be submitted with bid. If a subcontract is in excess of \$25,000, the subcontractor must also submit this form to the Prime Contractor. This form is required pursuant to Article 15A of the Executive Law. A contract may not be entered into without this form being submitted and approved by the Affirmative Action Office. Failure to submit this form could result in disqualification.

|                                  |                                                                                                                                                                                                                       |
|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PROJECT NO.                      | Indicate assigned NYS OPRHP project number                                                                                                                                                                            |
| BID DATE                         | Date of Bid Award                                                                                                                                                                                                     |
| AGREEMENT/CONTRACT VALUE         | Value of Contract Award                                                                                                                                                                                               |
| REGION                           | Regional Office of contract award                                                                                                                                                                                     |
| NAME                             | Provide full name of consultant/contractor (please print clearly)                                                                                                                                                     |
| FEDERAL ID#                      | Provide Federal identification number of Consultant/Contractor; Required field mandatory                                                                                                                              |
| ADDRESS/PHONE FAX/E-MAIL ADDRESS | Of awarded consultant or contractor (please print clearly)                                                                                                                                                            |
| SUBCONTRACTOR / SUPPLIER NAME    | Provide full name of subcontractor/subconsultant//supplier (please print clearly)                                                                                                                                     |
| FEDERAL ID NO.                   | Provide <u>accurate</u> Federal ID number of MWBE sub-consultant/subcontractor/supplier; Required field mandatory.                                                                                                    |
| CONTRACT GOALS                   | Goals assigned to project                                                                                                                                                                                             |
| CHECK ONE - MBE / WBE / OTHER    | Indicate if firm is Minority Owned Business Enterprise (MBE) or Women Owned Business Enterprise (WBE). Only firms certified by NYS will be counted towards M/WBE goals. Other – Indicate business not MWBE certified. |
| DESCRIPTION OF WORK OR SUPPLIES  | Provide a brief description of work to be done – Examples: Paving, Maintenance, Landscaping Supplies, etc.                                                                                                            |
| DOLLAR VALUE OF CONTRACT         | Indicate total dollar amount of award to sub-consultant/subcontractor/supplier                                                                                                                                        |
| ANTICIPATED CONTRACT DATE        | Indicate the proposed start and completion dates of award to sub-consultant/subcontractor/supplier                                                                                                                    |
| COMPANY OFFICER SIGNATURE        | Signature of official responsible for contract.                                                                                                                                                                       |
| NAME                             | Please print clearly name of official signature.                                                                                                                                                                      |
| DATE                             | Provide date the M/WBE Utilization Plan is signed                                                                                                                                                                     |
| TITLE                            | Provide title of official responsible for contract                                                                                                                                                                    |

The information included on the form is subject to verification by NYS Parks. Any activity that alters the approved MWBE Utilization Plan should be supported with documentation or explanation. An amendment to this form must be submitted whenever a substitute or additional sub-consultant/subcontractor/supplier is proposed.

**NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION  
WAIVER REQUEST FORM  
MWBE PROGRAM**

CONTRACTOR'S NAME: \_\_\_\_\_

Address: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_ Region: \_\_\_\_\_

Contract Number: \_\_\_\_\_ Federal ID # \_\_\_\_\_

---

A CONTRACTOR'S Waiver's Request Form must be accompanied by, but not limited to, the following:

- \_\_\_\_\_ Your statement for setting forth basis for requesting a partial or total waiver.
- \_\_\_\_\_ List of general circulations, trade association and minority and women-owned publications in which bids were solicited for purposes of complying with goal requirements.
- \_\_\_\_\_ Text, dates and copies of legal notices for certified minority and women-owned business participation published in any of the publications named above.
- \_\_\_\_\_ List NYS certified MWBE firms which were solicited to provide bids or quotes for the purpose of complying with the New York State Office of Parks, Recreation and Historic Preservation goal requirements.
- \_\_\_\_\_ Copies of responses made by certified MWBE firms.
- \_\_\_\_\_ Descriptions of any contract documents, plans or specifications made available to certified MWBE firms for the purposes of soliciting their bids, and the dates and manner in which these documents were made available.
- \_\_\_\_\_ Proof of dates on which solicitations were made in writing and copies of solicitations made.
- \_\_\_\_\_ Documentation of any negotiations between the CONTRACTOR and/or their contractors and certifies MWBE firms undertaken for the purpose of complying with goal requirements.
- \_\_\_\_\_ Other relevant information.

---

I acknowledge failure to submit the required documentation may disqualify our bid package.

I certify that I am a representative of the Corporation/Company herein referenced. According to my knowledge and belief all of the statements and items contained within the attachments are true, complete and correct to the best of my knowledge and are in good faith.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

---

**FOR OPRHP USE ONLY**

Complete Waiver: \_\_\_\_\_ Partial Waiver: MBW \_\_\_\_\_ WBE \_\_\_\_\_ Rejected: \_\_\_\_\_

Reviewed By: \_\_\_\_\_ Date: \_\_\_\_\_