



# Parks, Recreation and Historic Preservation

## Invitation for Bid

<b>Title:</b> Hempstead Lake State Park Environmental Center – Interpretive Exhibits 880 Lake Drive, West Hempstead, NY 11552	
<b>Contract Period/Term:</b> One Year, Upon OSC Approval 03/01/2021 to 02/28/2022	<b>Number:</b> C003502

Designated Contact(s) & Bid Submission Address		
Rachel Flood	Joseph Scandurra	Sharon Featherstone
<a href="mailto:Contracts@parks.ny.gov">Contracts@parks.ny.gov</a> Office of Parks, Recreation and Historic Preservation Procurement and Diversity Compliance Unit 625 Broadway, 2 <sup>nd</sup> Floor Albany, NY 12207		

IFB Timeline	
Action	Date/Time
IFB Release	11/2/2020
Questions Deadline	11/24/2020 3:00 PM ET
Questions Response	Approximately 12/2/2020
Bids Due	12/16/2020 3:00 PM ET
Tentative Award	Approximately 12/23/2020
Contract Start Date	Approximately 03/01/2021
Project Completion Date	Approximately 07/30/2021

Vendors are responsible for reviewing the guidance and adhering to the NYS Department of Health Travel Advisory requirements related to the Novel Coronavirus <https://coronavirus.health.ny.gov/covid-19-travel-advisory>.

### M/WBE Contract Goals

- 10% Minority and Women's Business Enterprise Participation
- 5% Minority Business Enterprise Participation
- 5% Women's Business Enterprise Participation

# Table of Contents

Table of Contents .....	2
Key Points .....	6
1. IFB Requirements.....	7
1.1 Agency .....	7
1.2 Overview / Purpose .....	7
1.3 Minimum Qualifications to Bid .....	7
1.4 Pre-Proposal Site Visit .....	8
1.5 Glossary .....	8
1.6 List of Appendices, Attachments, Forms, and Exhibits .....	9
1.7 Downstream Prohibition .....	9
1.8 Reference to Manufacturer Products .....	9
2. Service Requirements .....	10
2.1 Scope of Work.....	10
2.2 Contractor Responsibilities – Exhibits .....	11
2.3 Quality Assurance .....	12
2.3.1 Engineering.....	12
2.3.2 In-Fabrication Review .....	12
2.3.3 Products .....	12
2.3.4 Fire Resistance .....	12
2.3.5 Painting and Finishing.....	12
2.4 Project Conditions .....	13
2.5 Property Rights.....	13
2.6 Contractor Documentation .....	13
2.7 Submittals.....	14
2.7.1 Shop drawings showing fabrication and erection of exhibits and graphics.....	14
2.7.2 Engineer's signed and sealed drawings and calculations.....	14
2.7.3 Product data for materials used .....	14
2.7.4 Art and copy layouts for proofing. ....	14
2.7.5 Samples .....	14
2.7.6 Progress Photos.....	14
2.7.7 Records.....	14
2.7.8 Project Closeout.....	14
2.7.9 Cleaning and Maintenance Data.....	14
2.7.10 Warranties.....	14
2.8 Schedule of Mock-Ups .....	15
2.9 Delivery, Storage and Handling.....	15
2.10 Contractor Site Management .....	15

2.11	Warranty .....	15
2.12	Execution .....	15
2.12.1	Site Examination .....	15
2.12.2	Location .....	16
2.12.3	Attachment .....	16
2.13	Adjust and Clean .....	16
2.14	Protection .....	16
2.15	Instruction .....	16
2.16	Compensation Requirements .....	16
2.16.1	Milestone 1 (10%) Approved Shop Drawings .....	16
2.16.2	Milestone 2 (40%) Fabricated Exhibit .....	17
2.16.3	Milestone 3 (50%) Installation and Acceptance .....	17
3.	Instructions to Bidders .....	18
3.1	Questions/Inquiries .....	18
3.2	Procurement Lobbying Guidelines .....	18
3.3	Response to Bidder Questions and Requests for Clarification .....	18
3.4	Notification of Intent to Bid/Not Bid .....	18
3.4.1	“No Bid” Submission .....	18
3.4.2	Removal from Bidders List .....	19
3.5	Method of Award .....	19
3.6	Contract Signing and Contract Term .....	19
3.7	Form of Bids .....	19
3.7.1	Hardcopy Bids .....	19
3.7.2	E-Mail Bids .....	19
3.8	Submission Requirements .....	20
3.8.1	Bid Requirements – to establish responsibility .....	20
3.8.2	Completed Forms .....	20
3.9	Tie Bids .....	20
3.10	Modification or Withdrawal of Bids .....	20
4.	Administrative Requirements .....	21
4.1	Issuing Agency .....	21
4.2	Solicitation .....	21
4.3	Liability .....	21
4.4	State's Rights to Proposals .....	21
4.5	Freedom of Information Law .....	22
4.6	Bid Security .....	22
4.7	Timely Submission .....	23
4.8	Bid Effective Period .....	23
4.9	Bid Opening .....	23

4.10	Bidder Proposal Clarification .....	23
4.11	Bid Evaluation and Selection.....	23
4.12	Contract Negotiations and Authorized Negotiators .....	23
4.13	Bid Review and Contract Approval.....	23
4.14	Debriefing Sessions .....	23
4.15	Bid Protest Procedure .....	24
4.16	NYS Finance Law § 139-l .....	24
4.17	Conformance to IFB .....	24
4.18	Encouraging use of New York State Business in Contract Performance .....	24
4.19	Bidder Assurances .....	25
4.20	Vendor Responsibility Questionnaire .....	25
4.21	Tax Law §5-A .....	25
5.	Contractual Requirements.....	27
5.1	Appendix A Standard Clauses for New York State Contracts.....	27
5.2	Appendix B General Specifications for OPRHP Contracts.....	27
5.3	Appendix C Participation by Minority Group Members and Women with Respect to State Contracts .....	27
5.4	Order of Precedence .....	27
5.5	Procedures for Amendments.....	27
5.6	Conflict of Interest .....	27
5.7	Litigation Support .....	28
5.8	Interpretation & Disputes.....	28
5.9	Indemnification .....	28
5.10	Equal Employment Opportunities .....	28
5.11	Relationship as Independent Contractor .....	29
5.12	Payment Requirements.....	30
5.13	CPI Price Adjustments .....	31
5.14	Prime Contractor/Subcontractor .....	31
5.15	Diesel .....	31
5.16	Advertising.....	31
5.17	Termination Provisions.....	31
5.17.1	Lobby Law Termination Provision .....	31
5.17.2	Termination Pursuant to Tax Law §5-a .....	31
5.17.3	Termination Pursuant to Vendor Responsibility (for Non-Responsibility): .....	31
5.18	Vendor Responsibility Provisions .....	32
5.18.1	General Responsibility .....	32
5.18.2	Suspension of Work (for Non-Responsibility) .....	32
5.19	Insurance Requirements .....	32
5.20	Prevailing Wages / Payroll Certification .....	32
5.21	Contractor's Compensatory Liability.....	32

5.22	Warranties .....	33
5.23	Security Procedures .....	33
5.24	Travel, Meals and Lodging .....	33
5.25	Damages .....	33
5.26	Contract Staffing Requirements .....	33
5.27	Additional Consultant Hours .....	33
5.28	Vehicles .....	33
5.29	Retainage .....	34
Appendix A - Standard Clauses for New York State Contracts .....		35
Appendix B - General Specifications for OPRHP Contracts .....		42
Appendix C - Participation by Minority Group Members and Women with Respect to State Contracts.....		63
Appendix D - Bid Protest Procedures .....		68
Appendix F – Insurance Requirements .....		69
Attachment 1 - Bid Form .....		72
Attachment 2 – Lobbying Law Certification .....		73
Attachment 3 - Non-Collusive Bidding Certification .....		75
Attachment 4 - Public Officers Law .....		76
Attachment 5 - Encouraging Use of New York State Businesses in Contract Performance .....		77
Attachment 6 - NYS Finance Law §139-I and Executive Order No. 177 Certification .....		78
Attachment 7 – Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Policy Statement.....		79
Attachment 8 – Vendor Responsibility Attestation .....		80
Attachment 9 - No Bid Form.....		81
ST-220-CA Contractor Certification to Covered Agency .....		82
ST-220-TD Contractor Certification.....		83
Exhibit A - METAL FABRICATIONS .....		87
Exhibit B - PIPE AND TUBE RAILINGS.....		91
Exhibit C - ROUGH CARPENTRY .....		96
Exhibit D - ARCHITECTURAL WOOD CASEWORK.....		99
Exhibit E - INTERIOR PAINTING.....		100
Exhibit F - USER-EXHIBIT EQUIPMENT .....		105
Exhibit G - SOLID SURFACE MATERIALS .....		109
Exhibit H - USER-VISUAL SYSTEM.....		111
Exhibit I - USER-AV CONTROL SYSTEMS .....		115
Exhibit J - HLSP EXHIBIT Drawings .....		119

## Key Points

- **Read this document and associated attachments in their entirety.**

Note key items such as critical dates, services required, qualifying and mandatory requirements, and proposal submission requirements.

- **Bidder proposals must completely address all qualifying and mandatory requirements.**

To ensure your proposal is valid, thoroughly read all proposal requirements and provide complete responses. Ensure all aspects of each requirement are met. Use the forms provided to submit your response.

- **Note the name and email of the designated contacts listed on the front page of this document.**

These are the only individuals that you are permitted to contract regarding this procurement in accordance with Procurement Lobbying Law.

- **All announcements relating to this bid will be disseminated via electronic mail (e-mail).**

It is the Bidder's responsibility to check their e-mail periodically for any updates. All applicable amendment information must be incorporated into the Bidder's proposal. Failure to include any such information in your proposal may result in disqualification.

- **Take advantage of the question and answer periods.**

Question and Answer periods are your opportunity to seek clarification. Please utilize this process to understand requirements, as well as raise any questions or concerns with your ability to bid. Submit your questions via e-mail by the dates listed in the timeline on the front page of this document. Responses to the questions will be disseminated to all potential bidders via e-mail. Additional information about Question and Answers can be found in *Section 3.1 Questions/Inquiries*.

- **Review this document and your proposal.**

Make sure all requirements are fully addressed and all copies are identical, legible, and complete.

- **Package your proposal as required.**

Make sure your proposal conforms to the packaging requirements. Proposals not packaged accordingly may be deemed non-responsive. Additional information about packaging and content can be found in *Section 3.8 Submission Requirements*.

- **Submit your proposal on time.**

Except as specified in *Section 4.4 State's Rights to Proposals*, proposals received after the date and time in the IFB Timeline will not be considered for award and may be returned, unopened, to the sender.

## 1. IFB Requirements

It is the intent of this solicitation to seek a vendor to provide all necessary services and/or commodities. Bidders shall provide proposals which meet mandatory requirements of this IFB. Mandatory Requirements must be met by the Bidder in order to have a conforming bid. Desirable requirements are options that OPRHP prefers, but Bidders are not obligated to propose.

OPRHP will evaluate proposals against these requirements to understand the extent to which they will meet OPRHP's needs. These requirements are written from OPRHP's point of view and define what the solution must accomplish.

### 1.1 Agency

The mission of the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) is to provide safe and enjoyable recreational and interpretive opportunities for all New York State residents and visitors and to be responsible stewards of our valuable natural, historic, and cultural resources.

Fundamental to the successful achievement of our mission is the dedication of our employees and the adherence to a common set of values. These guiding principles serve as a pledge to the people we serve and a commitment to ourselves and to each other.

- **A Commitment to People.** We are committed to serving and protecting the public to the best of our ability, with courtesy and respect. We are committed to our employees and volunteers, encouraging teamwork, self-improvement, and mutual support.
- **A Commitment to Preservation.** State parks and historic sites are unique and irreplaceable public assets. We are committed to wise acquisition, planning, and, where appropriate, development; timely and professional care and maintenance; and a responsibility to future generations in whose trust we manage our resources. We are committed to providing encouragement to all agencies and individuals to identify, evaluate, and protect recreational, natural, historic, and cultural resources.

### 1.2 Overview / Purpose

The New York State Office of Parks, Recreation and Historic Preservation begun construction on a series of new projects at Hempstead Lake State Park Project, as a component of a project known as the Living with the Bay effort which is spearheaded by the NYS Governor's Office of Storm Recovery. The purpose of these projects is to build resiliency for neighboring and downstream communities through improved stormwater management, enhanced natural ecosystems, increased connectivity among diverse populations and access to natural spaces and recreational resources, enhanced safety, and promotion of environmental education and storm resiliency programs.

A component of this effort is a new Environmental Center at Hempstead Lake State Park that will provide environmental interpretation for park patrons so that they can engage this effort. To facilitate an active and engaging interpretive experience for park patrons a series of exhibits have been designed for placement within the new Environmental Center. This IFB seeks to solicit proposals from Exhibit Fabrication firms that specialize in the construction of interpretive exhibits.

### 1.3 Minimum Qualifications to Bid

OPRHP is seeking bids from experienced companies with the personnel, facilities, and organization to meet the demands of a contract of this scope. Bidders shall comply with the laws of the State of New York and shall possess or obtain any required licenses, permits, or authorizations.

To be deemed qualified and responsive, the Bidder shall provide a minimum of three (3) successful exhibit projects (Project References) produced within the last five (5) years for which the bidder was the prime contractor and exhibit projects include the following functions:

1. Audiovisual Technical Services, including:
  - Experience in network-based show control programming in major themed environments.
  - Experience in installation of AV equipment racks, enclosures, and theatrical truss.
  - Experience with digital media servers and media signal distribution methods.
  - Experience in configuration of commercial analog and digital (networked) audio distribution and playback systems.
  - Experience in audio DSP programming.
2. Electrical Technical Services
3. Exhibit Design/Detailing
4. Exhibit Fabrication and Cabinetry Work
5. Graphics Output
6. Metal Working

At least one (1) of the projects, shall demonstrate the installer's ability to produce exhibits that meet legal accessibility requirements, as well as best practices for universally accessible and inclusive design.

For each project reference, Bidders must provide the following:

1. Name of the project
2. Brief Description of Services Provided
3. Location of the project
4. Approximate square footage of the project
5. Name of the Client, Contact Person, and Telephone Number and E-mail
6. Date of Installation
7. Timeframe of Services Provided
8. Contract Amount
9. If applicable, Subcontractors who worked on each project and their respective role
10. Full-color, high-resolution images of the completed, installed exhibit, including multiple viewpoints of the exhibits.
11. Fabrication drawings produced for the project.

Project References will be scored on a pass/fail basis. If more than three Project References are provided by a Bidder, OPRHP will cease reference checks upon the response of the third reference.

#### 1.4 Pre-Proposal Site Visit

N/A

#### 1.5 Glossary

Term	Description
Agency	New York State Office of Parks, Recreation and Historic Preservation (OPRHP).
Director's Representative	OPRHP, Stephen McCorkell, RLA, Capital Facilities Manager, or their designee
Exhibit Designer	Contractor secured by OPRHP to provide exhibit designs.
Graphic Designer	Contractor secured by OPRHP to provide graphic designs.
OPRHP	Office of Parks, Recreation and Historic Preservation
N/A	Not applicable to this procurement
Substantial Completion	Substantial Completion would be after the Exhibit Fabricator installs the exhibits, but before OPRHP has provided final payment. Everything should be correct and



Term	Description
	finished except for minor items such as, minor damages to finishes, missing a minor piece of hardware, etc.

## 1.6 List of Appendices, Attachments, Forms, and Exhibits

### Appendices

Appendix A - Standard Clauses for New York State Contracts

Appendix B - General Specifications for OPRHP Contracts

Appendix C - Participation by Minority Group Members and Women with Respect to State Contracts

Appendix D - Bid Protest Procedures

Appendix F – Insurance Requirements

### Attachments

Attachment 1 – Bid Form

Attachment 2 – Lobbying Law Certification

Attachment 3 – Non-Collusive Bidder Certification

Attachment 4 - Public Officers Law

Attachment 5 - Encouraging Use of New York State Businesses in Contract Performance

Attachment 6 - NYS Finance Law §139-I and Executive Order No. 177 Certification

Attachment 7 – Vendor Responsibility Attestation

Attachment 8 – Diversity Practice Questionnaire

Attachment 9 – No Bid Form

ST-220-CA Contractor Certification to Covered Agency

ST-220-TD Contractor Certification

### Exhibits

Exhibit A - METAL FABRICATIONS

Exhibit B - PIPE AND TUBE RAILINGS

Exhibit C - ROUGH CARPENTRY

Exhibit D - ARCHITECTURAL WOOD CASEWORK

Exhibit E - INTERIOR PAINTING

Exhibit F - USER-EXHIBIT EQUIPMENT

Exhibit G - SOLID SURFACE MATERIALS

Exhibit H - USER-VISUAL SYSTEM

Exhibit I - USER-AV CONTROL SYSTEMS

Exhibit J - HLSP EXHIBIT Drawings

## 1.7 Downstream Prohibition

Any entity, contractor (or sub-contractor) involved with OPRHP for the development of specifications related to this project is not eligible to receive an award in response to this bid.

## 1.8 Reference to Manufacturer Products

Exhibits A through J refer to specific brand names and models as a reference to describe requirements such as functionality, style or capacity. OPRHP will make award to the low bid offering the specified product or one of equal characteristics.

## 2. Service Requirements

It is the intent of this solicitation to seek an Exhibit Contractor to provide a complete and working system to the intent stated in this Invitation for Bid at Hempstead Lake State Park Environmental Center. All equipment, labor and material required to install, document, complete and test the audio, video and related network control systems shall be provided by the Exhibit Contractor or sub-contractor.

Mandatory Requirements must be met by the Bidder, and if applicable, it's sub-contractors to have a conforming bid. These requirements are set forth the functionality that the OPRHP requires of the requested system. OPRHP will evaluate proposals against these requirements to understand the extent to which they will meet OPRHP's needs. These requirements are written from OPRHP's point of view and define what the solution must accomplish.

Exhibits A – J included in IFB Section 1.6 List of Appendices, Attachments, Forms, and Exhibits, are included to help underscore the needs of OPRHP with respect to products and mandatory specifications.

Exhibits A – I are intended to provide performance and aesthetic and functional specifications for the design, fabrication and installation of electromechanical exhibits. The Exhibit Contractor is responsible for the engineering and design of the components and materials as well as fabrication, installation, and performance of the fabrications.

Exhibit J - HLSP EXHIBIT Drawings are intended to establish the basic dimensions, finishes, motion, location, connections, and profiles of electromechanical exhibits. The Exhibit Contractor is responsible for the design and engineering of the fabrication within these parameters. The drawings are design requirements, unless specifically noted as completely engineered and designed on the drawings. Exhibit J - HLSP EXHIBIT Drawings do not cover some conditions or modifications, which may be required. The Exhibit Contractor, by accepting this Contract, acknowledges this and agrees that the Exhibit Designer shall have final acceptance of all matters whether detailed or not for the exhibit design details.

### 2.1 Scope of Work

The Work of Project is defined by the Contract documents. A general description of the primary work elements is listed below for reference, including but not limited to:

1. Production of detailed shop drawings for all floor and wall mounted Exhibits as shown in Exhibit J - HLSP EXHIBIT Drawings
2. Fabrication and installation of floor mounted Exhibits, Graphic displays and Cabinetry as shown on the Exhibit J - HLSP EXHIBIT Drawings, including but not limited to: metal and wood fabrication, acrylic and HPL interpretive panels, touchscreens and monitors, media playback devices, computers, acrylic topographic model, sculpted scenic environments, and specimen models of the following exhibits:
  - The Beauty of Hempstead
  - Virtual Tour Scope
  - Water Atlas
  - A Watershed Meant to Flood Interactive
  - Filtration Station
  - The Work of Wetlands
  - Life Cycles
3. Fabrication and installation of wall mounted Exhibits, Graphic displays and Cabinetry as shown on the Exhibit J - HLSP EXHIBIT Drawings, including but not limited to metal and wood fabrication, acrylic and High Pressure Laminate (HPL) interpretive panels, touchscreens and monitors, media playback devices, computers, acrylic vitrines, internal exhibit lighting, taxidermy specimens, and bag dispenser

of the following exhibits:

- Park Map
  - Things to Do Kiosk
  - History & Community
  - Keeping It Clean
  - Building Biodiversity
  - From the Dam
4. Fabrication and installation of ceiling mounted Components, including but not limited to pendant lamp assemblies, sculpted specimen models, and graphic banners for the following exhibits:
- The Beauty of Hempstead Banners
  - Building Biodiversity Bird Sculptures
  - Building Biodiversity Pendant Lamps
  - A Watershed Meant to Flood Banner
5. Fabrication and installation of graphic and information displays at exterior balcony guardrail display surface (guardrail display surface by others) including but not limited to HPL interpretive panels and metal fabrication for the following exhibits:
- Mill River System Interpretive Panels
6. Production of AV/Media Materials: The AV & Media production shall include all programming & development, asset creation & sourcing, copywriting, testing, and integration for the following exhibits
- The Beauty of Hempstead Drone Footage
  - History & Community Digital Photo Interactive
  - Water Atlas Interactive Digital Content & Programming
  - Bio Builder Interactive Content & Programming
  - Millions of Microorganisms Interactive Content & Programming
  - Flood Simulator Content & Programming
  - Virtual Tour Scope
  - From the Dam Media Content - Integration of Park Feed
  - Park Mobile App
7. AV/Media Installation: Installation of all supporting audio visual and exhibit lighting including but not limited to setup, testing, startup, training, and documentation.

## 2.2 Contractor Responsibilities – Exhibits

The awarded Contractor will be responsible for the fabrication and installation of the exhibit, meeting NYS Building Code and ADA Requirements, including:

- Preparation of the project schedule based on the desired installation date for review and approval by OPRHP.
- Create and provide shop drawings for exhibits and provide to Exhibit Designer via submittal for review and approval.
- Exhibit Fabricator shall obtain required construction inspections including structural observation, intermediate, and final as required by this Contract.
- Provide all submittals, including product data, shop drawings, structural calculations, art proofs, samples and warranties to the Directors Representative as indicated in technical specifications.
- Fabrication of exhibit, as per contract documents and approved shop drawings including management of any fabrication sub-contractors, if applicable. Exhibit Fabricator to provide fabrication

of exhibit structures, mounting, and installation of exhibits and graphics including structural and electrical connections as applicable.

- Provide a written installation plan as per contract documents, approved shop drawings and onsite coordination with the Director's Representative including management of transport/handling sub-contractors. Installation plan must outline the likely method of installation based on the conditions at the site.
- Coordination with concurrent work on site (ie: ongoing work to build the Environmental Education Center).
- Provide a written maintenance plan which outlines both sustainability and maintenance requirements based on the materials required.
- Protection of installed work and existing conditions during the performance of the work.
- Removal of all construction debris from the project site.
- Closeout submittals, such as warranties, as-builts, maintenance material as per technical specifications.

## 2.3 Quality Assurance

### 2.3.1 Engineering

Exhibit Fabricator shall provide shop drawings produced, signed, and sealed by a qualified Engineer licensed to practice in the jurisdiction of the project.

### 2.3.2 In-Fabrication Review

Exhibit Designer and Director's Representative will visit the Exhibit Fabricator's fabrication facility to review the progress and condition of the Work, at mutually agreed upon times.

Exhibit Fabricator will make available for review by Exhibit Designer and Director's Representative documentation of the source and quality of materials used in the fabrication of the exhibits and graphics.

- Quantity of fabrication facility visits: maximum of three (3).
  - Initial visit to occur within 60 days of Contract approval to review exhibit prototypes.
  - Two additional visits to monitor the progress and quality of the work.

### 2.3.3 Products

- Products shall be new stock, free from defects.
- Fabrication or installation methods or procedures shall not change the material warranty, quality, nor have an adverse effect on existing materials and surfaces.
- Exhibit Fabricator shall handle and install products according to manufacturer's instructions.

### 2.3.4 Fire Resistance

- Potentially combustible materials shall be fire-resistant. Whenever possible, fire resistance shall be inherent in the material. If necessary, application of fire retardants will be acceptable if they do not adversely affect the quality of the finished material.
- Exhibit Fabricator shall provide documentation of flammability testing by qualified testing services for potentially combustible materials.
- Class A (1) fire-rating for any interior sign.

### 2.3.5 Painting and Finishing

- For each individual system, provide primer and other undercoat paint produced by the same manufacturer as finish coat.
- Graphic Panels, Graphic Flats, and Signs shall have finished fronts, sides and backs whether or not shown on the Drawings.

## 2.4 Project Conditions

- Exhibit Fabricator shall take field measurements and existing owner provided item measurements prior to fabrication to ensure proper fitting of exhibits and graphics. Exhibit Fabricator must show recorded measurements on shop drawings.
- Exhibit Fabricator will coordinate exhibits with final building layout as be constructed by others.
- Exhibits and graphics shall not have protrusions, sharp edges, and other potential hazards for both guests and employees.
- Exterior mounted graphics are to be installed in a commercial, high-traffic area with exposure to weather, including humidity, heat, winds, and rain. Graphic panels must be durable under these conditions.
- Exhibits and graphics will be within reach of guests and employees. Exhibits and graphics must be durable under these conditions.

## 2.5 Property Rights

Exhibits, graphics, and media shall be work for hire. Exhibit Fabricator and all applicable subcontractors will grant and assign to the State of New York all right, title and interest to the work done under this contract, and will sign and deliver to the State of New York necessary documents and otherwise assist the State of New York to obtain intellectual property or other appropriate legal rights of the United States and foreign countries and to vest title in the State of New York. If the State of New York is unable for any reason to get Exhibit Fabricator's or any subcontractor's, as applicable, signature to any lawful document needed to obtain intellectual property or other appropriate legal rights, Exhibit Fabricator or the applicable subcontractor irrevocably appoints the State of New York and the State of New York's duly authorized officers and agents as its attorney in fact to execute and file any such application, assignment, or document and do all other lawfully permitted acts to further the procurement and maintenance of copyrights and other proprietary rights with the same legal force and effect as if signed by the Exhibit Fabricator and/or applicable subcontractor.

Exhibit Fabricator shall not employ the use of any material, method, system, component or process that is patented and/or copyrighted for which the use would require payment of a royalty or license fee without first obtaining the copyright and the State of New York's or their representative's written consent to the use of such patented material, method, system, component or process.

Exhibit Fabricator shall indemnify and hold the State of New York and the Designer harmless from and against liability, judgments, losses, costs or expenses including attorneys' fees incurred to defend any claims for infringement of any patent rights relating to or arising out of any materials delivered which constitute or is claimed to constitute an infringement of any patent rights or copyrights related thereto.

In the event the use of designated materials or methods are enjoined, the Exhibit Fabricator at its expense shall secure for the State of New York the right to continue using said materials or methods, replace the materials or methods with non-infringing materials, modify them so they become non-infringing, or remove the infringing materials or methods and refund to the State of New York costs and damages associated therewith without prejudice to any other rights the State of New York may have.

## 2.6 Contractor Documentation

After contract award, the awarded contractor will be responsible for submitting within (10) business days a schedule of submittals, arranged in chronological order by dates required by project schedule. Schedule must include time required for review, ordering, manufacturing, fabrication, and delivery when establishing dates.

Contractor must also include additional time for making corrections or revisions to submittals noted by the OPRHP Architect and/or Construction Manager and additional time for handling and reviewing submittals required by those corrections.

- **Initial Review:** Allow OPRHP seven (7) calendar days for initial review of each submittal. Allow additional time if coordination with subsequent submittals is required. Construction Manager will advise Contractor when a submittal being processed must be delayed for coordination.
- **Intermediate Review:** If intermediate submittal is necessary, process it in same manner as initial submittal.
- **Resubmittal Review:** Allow OPRHP seven (7) calendar days for review of each resubmittal.

## 2.7 Submittals

### 2.7.1 *Shop drawings showing fabrication and erection of exhibits and graphics.*

Exhibit Fabricator is to include plans, elevations, and large-scale sections of typical members and other components. Show anchors, grounds, layout, reinforcement, accessories, and installation details, as needed to effectively communicate the Exhibit Fabricator's fabrication and installation. For signs supported by or anchored to permanent construction, provide setting drawings, templates and directions for installation of anchor bolts.

### 2.7.2 *Engineer's signed and sealed drawings and calculations.*

### 2.7.3 *Product data for materials used*

Include chemical composition, flame spread, and fire rating information for each product used.

### 2.7.4 *Art and copy layouts for proofing.*

### 2.7.5 *Samples*

Samples for verification of color, pattern, and texture selected and compliance with requirements indicated. Provide three (3) of each unless noted otherwise.

- Actual paint samples on min 6" x 6" HUD foam
- 12" x 12" color sample of each type of graphic on the material/substrate, showing the base PMS color matches for background and text.
- HPL

### 2.7.6 *Progress Photos*

Progress Photos, as requested by the Exhibit Designer and Director's Representative.

### 2.7.7 *Records*

Records of any paint or paint mixing equations and any other pertinent information for use in making repairs and replacement parts in the future.

### 2.7.8 *Project Closeout*

Electronic production-ready vectored artwork files are to be given to the Exhibit Designer and Director's Representative upon project completion on labeled USB drive, External Hard drive, CDs or DVDs.

### 2.7.9 *Cleaning and Maintenance Data*

Provide procedures for operation and maintenance including stain removal.

### 2.7.10 *Warranties*

Submit warranties from manufacturers, fabricators and installers.

## 2.8 Schedule of Mock-Ups

- Mock-ups shall be representative of the construction and finish of the exhibits and graphics.
- Install mock up's in shop. Mock-up's may remain as part of the Work, if approved by the Exhibit Designer and Director's Representative.

## 2.9 Delivery, Storage and Handling

- Inspect buy-out material upon receipt from the manufacturer.
- Reject any defective or damaged materials.
- Handle and store materials according to manufacturer's instructions.
- Deliver elements to the project site in undamaged protective packaging labeled with specific contents.
- Protect materials from damage on construction site and store in a safe, dry location.
- Any material that becomes damaged during manufacture, shipping, or while being stored shall be replaced at no additional cost to the State of New York.

## 2.10 Contractor Site Management

Contractor shall be responsible for the following:

- Restore, by the end of each workday, existing in place safety/security items such as doors, screens, and alarm systems components that required removal, replacement, or adjustment to perform the Work, unless otherwise authorized in writing by the Director's Representative.
- Remove all tools and materials from public areas when the work areas are not attended by employees and at the end of each workday. Store tools in a locked toolbox, cabinet, or shed.
- Clean Project site and work areas daily, including common areas. Enforce requirements strictly. Dispose of materials lawfully.
- Containerize hazardous and unsanitary waste materials separately from other waste. Mark containers appropriately and dispose of legally, according to regulations.
- Clean areas where work is in progress to the level of cleanliness necessary for proper execution of the Work.
- Take field measurements to fit work to actual construction. If it is not possible or practical to take field measurements before fabrication, provide adequate installation tolerances and trim to fit.
- Coordinate installation of work with other project construction.
- Do not begin installation until potentially damaging conditions are corrected in the installation area.

## 2.11 Warranty

- Exhibit Fabricator shall warranty works for three (3) years from the date of Substantial Completion.
- Paint finishes are to be warranted against fading, discoloration, cracking and peeling for a minimum of five (5) years from the date of Substantial Completion.
- Products with a manufacturer's warranty exceeding one year shall be warranted for the manufacturer's specified length of time from the date of Substantial Completion.
- Exhibit Fabricator shall provide copies of written statements of warranty to the State of New York prior to Final Acceptance.

## 2.12 Execution

### 2.12.1 Site Examination

- Verify that blocking and backings have been installed in the appropriate locations for anchoring.
- Examine substrates and finishes of areas to receive elements and determine if they are in satisfactory condition for installation.

- Do not proceed with installation of elements until unsatisfactory conditions have been corrected.
- Do not install work until potentially damaging construction operations in the installation areas are completed.
- Install exhibits and graphics level and plumb, without rack or warp.

#### *2.12.2 Location*

- Comply with location information on contract drawings except where project conditions require adjustment of said locations.
- Notify Exhibit Designer and Director's Representative of any significant deviations from specified locations.

#### *2.12.3 Attachment*

- All elements are to be securely and permanently attached at locations shown unless otherwise indicated.
- Conceal all fasteners. Where concealment is not possible, countersink hardware and fill.
- Cut work precisely to fit.
- Use epoxy or other permanent adhesive for attachment only when other means are not possible.

### **2.13 Adjust and Clean**

- Repair or remove and replace defective work.
- Remove packing material from elements and leave units in clean condition, ready for use.
- Repair or remove and replace defective work as directed upon completion of installation.
- After installation, clean all exposed surfaces, touch-up as required, and remove or refinish damaged or soiled areas.
- Clean and touch up any soiled or damaged graphic, wall or casework surfaces.

### **2.14 Protection**

- Advise General Contractor of procedures and precautions for protection of materials and installed elements from damage by work of other trades.
- Protect installed elements during construction period.
- Remove temporary protection at final completion.

### **2.15 Instruction**

- Before leaving site, instruct designated facility personnel designated by Exhibit Designer and Director's Representative in the operation and maintenance of all elements.
- Provide Exhibit Designer and Director's Representative with maintenance information for all elements.

### **2.16 Compensation Requirements**

Contractor will be compensated for each of the following project milestones and the percent remitted will be based on the bidder's not-to-exceed total project budget bid. Compensation will be realized upon contractor submission and acceptance by OPRHP. Each milestone may be divided into smaller payments associated with deliverables identified depending on the exhibit and sequence of production. Milestones do not need to be completed in order.

#### *2.16.1 Milestone 1 (10%) Approved Shop Drawings*

1. Approved project schedule identifying all milestones in production and fabrication;
2. Approved Shop Drawings, including product data, shop drawings, structural calculations, art proofs, samples and warranties to the Directors Representative as indicated in technical specifications.



*2.16.2 Milestone 2 (40%) Fabricated Exhibit*

1. Fabrication of the exhibit.
2. OPRHP Shop Approval/Visit
3. Written Installation Plan

*2.16.3 Milestone 3 (50%) Installation and Acceptance*

1. Written Maintenance Guidelines and Closeout Submittals
2. Installation of Work
3. Final Acceptance by OPRHP

### 3. Instructions to Bidders

#### 3.1 Questions/Inquiries

Prospective Bidders will have an opportunity to submit written questions and requests for clarification regarding this Invitation for Bids (IFB). All questions regarding this IFB must be submitted via e-mail or mail and be received by the date and time specified in the IFB Timeline. Questions must reference the relevant page and section of the IFB and must be directed to the designated contact.

Questions submitted by Bidders should be printed or in a Word or Excel document in the following format:

No.	IFB Section	IFB Page	Vendor Name	Question
-----	-------------	----------	-------------	----------

Prospective Bidders should note that all clarifications and exceptions, including those relating to the terms and conditions of the IFB, are to be resolved prior to the submission of a bid by utilizing the Question and Answer period. Also, during the Question and Answer period, Bidders should be certain to bring forward terms and conditions in the IFB that would prohibit a Bidder from bidding. Bidders entering a contract with the State are expected to comply with all the terms and conditions contained herein.

Contacting individuals other than the designated contact listed above may result in the disqualification of the Bidder's proposal.

#### 3.2 Procurement Lobbying Guidelines

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OPRHP and an Offerer/bidder during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit offers/bids through final award and approval of the Procurement Contract by OPRHP and, if applicable, the Office of the State Comptroller ("restricted period") to other than the Designated Contact(s) unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j (3) (a).

Designated Contact(s), as of the date hereof, is identified above. OPRHP employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the Offerer/bidder is debarred from obtaining governmental Procurement Contracts. Information related to the Procurement Lobbying Law and guidelines can be found with in Attachment 2.

#### 3.3 Response to Bidder Questions and Requests for Clarification

The Agency will provide a written response to all substantive questions and requests for clarification. Responses to Bidder questions and requests for clarifications will be distributed via e-mail to the Agency-maintained Bidders List.

#### 3.4 Notification of Intent to Bid/Not Bid

##### 3.4.1 "No Bid" Submission

If you do not intend to bid on this procurement, please complete Attachment 9 - No Bid Form and send to the designed contact address listed on the cover of this IFB.

### *3.4.2 Removal from Bidders List*

If you would like to have your organization removed from the mailing list for procurements of this type, please send an e-mail requesting such to the designated contact listed on the cover of this IFB.

## **3.5 Method of Award**

In the sole discretion of OPRHP, the award of the contract will be made to a responsive, responsible and qualified bidder who offers the lowest Grand Total bid to perform work as outlined in these specifications. The successful bidder will be found non-responsible if OPRHP finds that he/she does not have sufficient resources.

No later than 45 days after the bid opening, OPRHP shall accept bids or reject all bids. Written notification of OPRHP's selection will be furnished to all responding bidders, and a final contract shall be mailed or delivered to the recommended awardee. If the selected bidder fails to execute and return the contract to OPRHP within the time allotted, OPRHP reserves the right to reject the selected bidder's bid and select the next lowest responsible bidder that will best promote the public interest. If all bids are rejected, each solicited bidder will be so notified.

## **3.6 Contract Signing and Contract Term**

The Agency intends to award one, one-year Contract to the successful Bidder, contingent upon New York State Attorney General (AG) and the Office of the State Comptroller (OSC) approval.

## **3.7 Form of Bids**

The Attachment 1 - Bid Form shall be completed in ink. The grand total bid amount must be shown in both words and numeric form. In case of a discrepancy between the words and numerals, the price indicated in words shall govern. Bidders may elect to submit either a hardcopy bid or a scanned copy of the original signed bid via e-mail,

All bids must be received at or before the time specified and at the place designated for the bid opening. A late bid will not be eligible for consideration unless no bids were received when due.

All bids and accompanying documentation submitted in response to this IFB will become the property of OPRHP and will not be returned. The resulting contract will include a copy of the specifications and the successful Bidder's Bid.

Bid submissions MUST be addressed to the designated contact listed on the cover page of this IFB.

### *3.7.1 Hardcopy Bids*

The bid shall be submitted in a sealed envelope marked in the lower left-hand corner with the following information:

PROPOSAL ENCLOSED  
IFB C003502  
Hempstead Lake State Park Environmental Center – Interpretive Exhibits  
Proposal Submission Due 12/16/2020, 3:00 PM ET

### *3.7.2 E-Mail Bids*

The bid shall be submitted via e-mail to [Contracts@parks.ny.gov](mailto:Contracts@parks.ny.gov) with the subject of the e-mail clearly marked with the following information:

Proposal Enclosed - IFB C003502 - Hempstead Lake State Park Environmental Center –  
Interpretive Exhibits - Due 12/16/2020 3:00 PM ET

### **3.8 Submission Requirements**

#### *3.8.1 Bid Requirements – to establish responsibility*

A. A Statement of Experience which, at a minimum, must include the following information:

- The business name of the bidder and the legal entity under which the quote is being submitted.
- The number of years the bidder has been providing services under the present business name.
- Any other name(s)/business entity (entities) under which the bidder has conducted similar business and the number of years' services were provided under that/those name(s).

B. The information requested in Section 1.3 Minimum Qualifications to Bid of this document.

#### *3.8.2 Completed Forms*

- Attachment 1 - Bid Form
- Attachment 2 - Lobbying Law Certification
- Attachment 3 - Non-Collusive Bidding Certification
- Attachment 4 - Public Officers Law Form
- Attachment 5 - Encouraging Use of New York State Businesses in Contract Performance
- Attachment 6 - NYS Finance Law §139-I and Executive Order No. 177 Certification
- Attachment 7 Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Policy Statement
- Attachment 8 - Vendor Responsibility Attestation
- ST-220-CA: Contractor Certification to Covered Agency

### **3.9 Tie Bids**

In the event there is a tie in the Grand Total Bid, Final determination will be made by the Commissioner of OPRHP

### **3.10 Modification or Withdrawal of Bids**

Bid modifications that are submitted in writing and signed by an authorized representative of the bidding firm will be considered for award if received at the place of the bid opening any time prior to the scheduled bid opening. Bids may be withdrawn or cancelled prior to the scheduled bid opening. A bid may be rejected by OPRHP: if it shows any alteration of terms, conditions or requirements; for any other irregularities; if it is incomplete, or if it offers an alternate bid not invited by the specifications.

## **4. Administrative Requirements**

With the submission of a response to this Invitation for Bid, the Bidder agrees to the proposal conditional outlined in this section.

### **4.1 Issuing Agency**

This IFB is issued by the New York State Office of Parks, Recreation and Historic Preservation, which is responsible for all criteria stated herein and for evaluation of all bids submitted.

### **4.2 Solicitation**

This IFB is a solicitation to bid, not an offer of a contract.

### **4.3 Liability**

OPRHP/The State of New York is not liable for any costs incurred by a Bidder in the preparation and production of any proposal, or for any work performed prior to the execution of a formal contract.

### **4.4 State's Rights to Proposals**

By submitting a bid, the Bidder agrees not to make any claim for, or have any right to, damages because of any misinterpretation or misunderstanding of the specifications, or because of any misinformation or lack of information. OPRHP reserve the right to exercise the following:

- Change any of the scheduled dates herein;
- Amend IFB Requirement(s) after their release to correct errors or oversights, or to supply additional information as it becomes available and so notify all potential Bidders;
- Withdraw the IFB, at its sole discretion without any obligation or liability to any vendor;
- Eliminate any mandatory, non-material requirement that cannot be complied with by all of the prospective Bidders;
- Evaluate, accept and/or reject any and all bids, in whole or in part, and to waive technicalities, irregularities, and omissions if, in OPRHP's judgement, the best interests of OPRHP will be served. In the event compliant bids are not received, OPRHP reserves the right to consider late or non-conforming bids as offers;
- Require the Bidder to demonstrate, to the satisfaction of OPRHP, any information presented as part of their proposal;
- Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an Offerer's proposal and/or to determine an Offerer's compliance with the requirements of this solicitation;
- Disqualify any Bidder whose conduct and/or bid fails to conform to the requirements of the solicitation;
- Use proposal information obtained through OPRHP investigation of a Bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the Bidder in response to OPRHP's request for clarifying information in the course of evaluation and selection under this IFB;
- Prior to the bid opening, determine a tie breaking mechanism for award of the Contract to serve the best interests of OPRHP and the State of New York;
- Negotiate with the successful Bidder within the scope of the IFB to serve the best interests of OPRHP and the State of New York;
- Conduct Contract negotiations with the next ranked responsible Bidder, should OPRHP be unsuccessful in negotiating an Agreement with the selected Bidder;

- Conduct negotiations with the next ranked responsible Bidder should the awarded Contractor fail to implement these Services upon approval of the Contract;
- If OPRHP terminates the Contract for non-performance, OPRHP reserves the right, with the approval of the Attorney General and the Office of the State Comptroller, to award a contract to the next highest ranked Bidder of the original bid submission within the first twelve months of the award;
- Utilize any and all ideas submitted in the bids received;
- Make an award under the IFB in whole or in part; and
- Seek revisions of bids.

Bids containing false or misleading statements, or which provide project contacts that do not support an attribute or condition claimed by a Bidder, may be disqualified from consideration. If, in the opinion of the Agency, a statement is intended to mislead the Agency in its evaluation of the bid, and the attribute, condition, or capability is a requirement of the IFB, the bid shall be disqualified from consideration.

#### **4.5 Freedom of Information Law**

Your bid to OPRHP, including accompanying documents, is subject to the Freedom of Information Law (FOIL) found in Article 6 of the N.Y. Public Officer Law. FOIL provides that certain records are exempt from disclosure, including those that contain (1) trade secrets, (2) information that, if disclosed, would cause substantial injury to the competitive position of your organization, or (3) critical infrastructure information. Records may be redacted to protect only the portions of documents that fall within a FOIL exemption. An entire document may not be withheld if only a portion of the document is exempt from disclosure. Blanket assertions that information is a trade secret, confidential, or proprietary are insufficient to justify withholding information under FOIL. If you identify information seeking an exemption from public disclosure due to the above-mentioned reasons such request will be reviewed and a determination will be made as to whether the information is exempt from disclosure under FOIL. However, such submissions seeking non-disclosure will not be considered unless it is accompanied with an explanation justifying the privilege. The State's determination may be appealed pursuant to POL §89(5)(c). Pursuant to POL §87(2)(b), the State, without having to request it, will redact information that "if disclosed would constitute an unwarranted invasion of personal privacy."

#### **4.6 Bid Security**

Each Bidder's bid will be held in strict confidence by OPRHP/State of New York staff and will not be disclosed except to the Office of the Attorney General and the Office of the State Comptroller as may be necessary to obtain approvals of those agencies for the final Contract and except as required by law.

Public inspection of the bids is regulated by the Freedom of Information Law (Article 6 of the New York State Public Officers Law). The bids are presumptively available for public inspection. If this would be unacceptable to Bidders, they should apply to OPRHP for trade secret protection for their bid.

The public officers' code of ethics (Section 74 of the Public Officers Law) sets the standard that no officer or employee of a State agency shall disclose confidential information that he acquires during the course of his official duties. These standards control the confidentiality of a Bidder's bid unless OPRHP grants a petition for records access in accordance with the Freedom of Information Law.

Bidders should be advised that the confidentiality of their proposals is founded upon statute, as described above. A nondisclosure agreement, whether prescribed by OPRHP or the Bidder, would not alter the rights and responsibilities of either party under the Freedom of Information Law. Bidders should not propose a nondisclosure agreement for OPRHP employees, for that would be legally ineffective to alter any legal responsibility under the Freedom of Information Law or the code of ethics.

The provisions of the Freedom of Information Law will also govern the confidentiality of any and all products or services supplied by the successful Bidder.

#### **4.7 Timely Submission**

The Bidders are solely responsible for timely delivery of their bid to the location set forth by the stated bid due date/time and are solely responsible for delays in receipt, including but not limited to those due to third-party carriers.

#### **4.8 Bid Effective Period**

The Bidder's bid must be firm and binding for a period of at least 180 days following the bid due date.

#### **4.9 Bid Opening**

Bids will not be opened publicly. OPRHP reserves the right at any time to postpone or cancel a scheduled bid opening.

#### **4.10 Bidder Proposal Clarification**

Prior to award, OPRHP reserves the right to seek clarifications, request proposal revisions, or to request any information deemed necessary for proper evaluation of proposals from all Bidders deemed to be eligible for Contract award. Failure of a bidder to cooperate with OPRHP's effort to clarify a proposal may result in the proposal being labeled as non-responsive and be given no further consideration.

Additionally, OPRHP reserve the right to use information submitted by the Bidder in response to OPRHP's request for clarifying information in the course of evaluation and selection under this IFB.

#### **4.11 Bid Evaluation and Selection**

See *Section 3.5 Method of Award*, regarding bid selection and evaluation methodology. Submitted bids may be reviewed and evaluated by any personnel or agents of OPRHP, other than one associated with a competing Bidder.

#### **4.12 Contract Negotiations and Authorized Negotiators**

During contract negotiations, OPRHP must have direct access to Bidder personnel who have full authority to make commitments on behalf of the Bidder. Bidders must include, as part of their proposal, any restrictions under which their primary negotiators will operate.

#### **4.13 Bid Review and Contract Approval**

The Contract resulting from this IFB will not be effective until approved by the Office of the Attorney General and the Office of the State Comptroller.

#### **4.14 Debriefing Sessions**

A debriefing is available to any entity that submitted a proposal or bid in response to a solicitation ("Bidder"). A Bidder will be accorded fair and equal treatment with respect to its opportunity for debriefing.

Debriefing must be requested in writing by any bidder within fifteen (15) calendar days of OPRHP notifying the unsuccessful bidders that another vendor was selected.

A bidder's written request for a debriefing must be submitted to the designated contact listed on the cover of this IFB.

The debriefing will be scheduled within ten (10) business days of receipt of written request by OPRHP or as soon after that time as practicable under the circumstances.

#### **4.15 Bid Protest Procedure**

OPRHP procedures for handling protests of bid awards are set forth in *Appendix D, Bid Protest Procedures*.

#### **4.16 NYS Finance Law § 139-I**

Pursuant to N.Y. State Finance Law § 139-I, every bid made on or after January 1, 2019 to the State or any public department or agency thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed and where otherwise required by such public department or agency, shall contain a certification that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of N.Y. State Labor Law § 201-g.

N.Y. State Labor Law § 201-g provides requirements for such policy and training and directs the Department of Labor, in consultation with the Division of Human Rights, to create and publish a model sexual harassment prevention guidance document, sexual harassment prevention policy, and sexual harassment prevention training program that employers may utilize to meet the requirements of N.Y. State Labor law § 201-g. The model sexual harassment prevention policy, model sexual harassment training materials, and further guidance for employers, can be found online at the following URL:<https://www.ny.gov/combating-sexual-harassment-workplace/> employers.

Pursuant to N.Y. State Finance Law § 139-I, any bid by a corporate bidder containing the certification required above shall be deemed to have been authorized by the board of directors of such bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the bidder.

If the Bidder cannot make the required certification, such Bidder shall so state and shall furnish with the bid a signed statement that sets forth in detail the reasons that the Bidder cannot make the certification. After review and consideration of such statement, OPRHP may reject the bid or may decide that there are sufficient reasons to accept the bid without such certification.

#### **4.17 Conformance to IFB**

Any exceptions or objections to the terms, conditions, and requirements of this IFB are governed by, and to be submitted in accordance with *Appendix B, Section 10, Extraneous Terms*. Bidders are cautioned that any such exceptions or objections may render their bid non-responsive.

#### **4.18 Encouraging use of New York State Business in Contract Performance**

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.



Each Bidder must complete and submit Encouraging Use of New York State Business in Contract Performance.

#### **4.19 Bidder Assurances**

The Bidder warrants that it has carefully reviewed OPRHP's needs as described in the IFB and its attachments/supplements. Bidder also warrants that it has familiarized itself with OPRHP's specifications and that it can provide such services as described in the IFB and as offered in its Bid.

If awarded the contract, the Bidder agrees that it will perform its obligations hereunder in accordance with all applicable Federal, State and local laws, rules, and regulations now or hereafter in effect.

The Bidder further warrants and affirms that the terms of this IFB and any resultant contract do not violate any contracts or agreements to which it is a party and that its other contractual obligations will not adversely influence its capabilities to perform under the contract.

#### **4.20 Vendor Responsibility Questionnaire**

If this or any other contract you have with the State of New York is valued at \$100,000.00 or more, OPRHP requires that Vendor file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. However, vendors may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at <https://osc.state.ny.us/vendrep/index.htm>. For direct VendRep System user assistance, the Office of State Comptroller's Help Desk may be reached at (866) 370-4672 or (518) 408-4672 or by email at [ciohelpdesk@osc.state.ny.us](mailto:ciohelpdesk@osc.state.ny.us). Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website at <https://osc.state.ny.us/vendrep/index.htm> or may contact OPRHP or the Office of the State Comptroller's Help Desk for a copy of the paper form.

Vendors must provide their New York State Vendor Identification number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's help desk at (866) 370-4672 or (518) 408-4672 or by e-mail at [ciohelpdesk@osc.state.ny.us](mailto:ciohelpdesk@osc.state.ny.us).

To be considered timely, questionnaires filed via the VendRep System require that a vendor certify a questionnaire no more than six months before the due date of the bid. If you are bidding on other state contracts in the future, you only have to update any changes that have occurred in the last six months or since the last time you updated your questionnaire, (you do not have to completely fill out a new questionnaire unless you have made a major change to your company).

#### **4.21 Tax Law §5-A**

Tax Law §5-a is effective with all solicitations to purchase issued by covered agencies on or after January 1, 2005. It applies to contracts where: (1) the total amount of such persons' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates, subcontractors, or affiliates of subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made; and (2) the contracts or agreements with State agencies or public authorities for the sale of commodities or services have a value in excess of \$100,000. This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, its subcontractors and affiliates of the subcontractors are required to register to collect State sales and compensating use tax. Where required to register, the contractor must also certify that it is, in fact, registered with the New York State Department of Taxation and Finance (DTF). The law prohibits the Comptroller, or other approving agency, from approving a contract awarded

to a vendor meeting the registration requirements but who is not so registered in accordance with the law.

Upon notice of potential award, the responsive Bidder may be required to submit, within ten business days of receipt of the notice, the New York State Tax Law §5-A Contractor Certification Forms (ST-220-CA and ST-220-TD). Failure to respond may render a Bidder non-responsive and non-responsible. Bidders shall take the necessary steps to provide properly certified forms to ensure compliance with the law.

Bidders may call the DTF at (800) 972-1233 for any and all questions relating to Tax Law §5-a and relating to a company's registration status with the DTF. For additional information and frequently asked questions, please refer to the DTF website [www.tax.ny.gov](http://www.tax.ny.gov).

## **5. Contractual Requirements**

With the submission of a response to this Invitation for Bids, the Bidder agrees to all contract conditions outlined in this Section except that Bidders may propose changes as allowable in *Appendix B, Section 6, Extraneous Terms*.

### **5.1 Appendix A Standard Clauses for New York State Contracts**

The terms of *Appendix A, Standard Clauses for New York State Contracts*, attached hereto, are hereby incorporated into this IFB and any resulting contract. The contractor is required to adhere to all clauses.

### **5.2 Appendix B General Specifications for OPRHP Contracts**

The terms of *Appendix B, General Specifications for OPRHP Contracts*, attached hereto, are hereby incorporated into this IFB and any resulting contract and shall govern any situations not covered by this IFB or *Appendix A*.

### **5.3 Appendix C Participation by Minority Group Members and Women with Respect to State Contracts**

The terms of *Appendix C, Participation by Minority Group members and Women with Respect to State Contracts*, attached hereto, are hereby incorporated into this IFB and any resulting contract. The contractor is required to adhere to all clauses.

### **5.4 Order of Precedence**

In the event of any inconsistency in or conflict among the document elements of the future contract identified herein, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the order set forth below:

- A. Appendix A Standard Clauses for New York State Contracts
- B. Appendix B General Specifications for OPRHP Contracts
- C. Contract, including all schedules, exhibits, attachments, and amendments
- D. IFB and Addenda, including any modifications by OPRHP and by official OPRHP responses to questions; and
- E. Contractor's Bid in Response to the IFB

### **5.5 Procedures for Amendments**

See *Appendix B, Section 31, Modification of Contract Terms*.

Any request by the contractor to change or amend any part of the contract shall be made, in writing, to OPRHP and may be subject to approval by the Office of the State Comptroller and/or the Office of the Attorney General.

### **5.6 Conflict of Interest**

The Contractor will be responsible for establishing procedures to identify potential conflicts of interest. If during the term of this Agreement, and any extensions thereof, the Contractor becomes aware of an actual or potential relationship which may be considered a conflict of interest, the Contractor shall immediately notify the State in writing and disclose the nature of the potential conflict of interest in the

manner prescribed by the State. The State will have sole discretion in evaluating the nature of the identified conflict of interest and will make the final decision regarding its resolution.

### **5.7 Litigation Support**

In the event that the Agency becomes involved in litigation related to the subject matter of the resulting contract, the Contractor agrees to provide background support and other litigation support, including but not limited to depositions, appearances, and testimony. Compensation may be negotiated.

### **5.8 Interpretation & Disputes**

Any dispute arising from this IFB, or from any resulting contract, shall be submitted in writing within seven (7) business days after the issuance of the award recommendation letter, to the Designated Contact provided on the cover of this IFB.

### **5.9 Indemnification**

The Contractor agrees to indemnify, defend, save, and hold harmless the State of New York, OPRHP, and their officers, employees and agents of and from any claims, demands, actions, or causes of action of any kind arising out of the services of the Contractor provided for in this agreement.

### **5.10 Equal Employment Opportunities**

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.
- B. In performing the Contract, the Contractor shall:
  1. Ensure that each contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
  2. The Contractor shall submit an EEO policy statement to the New York State office of Parks, Recreation and Historic Preservation within seventy-two (72) hours after the date of the notice by the New York State office of Parks, Recreation and Historic Preservation to award the Contract to the Contractor.
  3. If the Contractor, or any of its subcontractors, does not have an existing EEO policy statement, the New York State office of Parks, Recreation and Historic Preservation may require the Contractor or subcontractor to adopt a model statement (see Attachment 7 – Equal Employment Opportunity Policy Statement).
  4. The Contractor's EEO policy statement shall include the following language:
    - 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 EEO programs 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.

- b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the 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. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
- d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

#### C. Staffing Plan

To ensure compliance with this Section, for those contracts reaching \$250,000 or greater, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The Contractor shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

#### D. Workforce Utilization Report

- 1) The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by the New York State Office of Parks, Recreation and Historic Preservation on a [MONTHLY/QUARTERLY] basis during the term of the Contract.
- 2) Separate forms shall be completed by the Contractor and any subcontractors.
- 3) Pursuant to Executive Order #162, contractors and subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.

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

#### 5.11 Relationship as Independent Contractor

The relationship of the Contractor to OPRHP is that of an independent contractor, and the Contractor, in accordance with its status as such, covenants and agrees that it will conduct itself in a manner consistent

with such status, that it will not hold itself out as an agent of OPRHP by reason of this agreement, and that no employee of Contractor, by reason of this agreement, will claim to be an officer or employee of OPRHP or make any claim, demand, or application for any benefit, right, or privilege applicable to employees of the State of New York.

## 5.12 Payment Requirements

The Contractor's compensation will be based on the Contractor's response to this IFB and in accordance with 4.12 Compensation Requirements.

If applicable, payment requests shall be made on forms mutually agreed upon by the Contractor and the Agency and shall include appropriate back-up documentation to support the request for payment. All payments will be made in accordance with Article XI-A of the State Finance Law.

All requests for payment must include an explanation and breakdown showing determination of all charges.

The Agency pays charges after the services and or/products are provided and does not pay in advance for these services and/or products. Fees paid for which it is subsequently determined that the Contractor was not entitled must be reimbursed to the Agency, and the Agency may do so by subtracting such fees from any payments that later become due to the Contractor under the Contract.

Payment shall be made as follows:

- A. The Contractor shall submit to OPRHP for its approval, and for the audit and warrant of the State Comptroller, a proper invoice, receipts, and documents that verify the Contractor's expenditures as directed by OPRHP. The Contractor shall reference the contract number on the invoice.
- B. Invoices should be submitted for services rendered and for acceptance by OPRHP to the following designated payment office:

Stephen McCorkell, RLA – Capital Bureau – 2<sup>nd</sup> Floor  
625 Broadway, Albany NY 12238  
Stephen.McCorkell@parks.ny.gov

- C. Contractor shall provide complete and accurate billing invoices to OPRHP in order to receive payment. Billing invoices submitted to OPRHP must contain all information and supporting documentation required by the Contract, OPRHP, and the State Comptroller. Payment for invoices submitted by the Contractor shall be sent to the address listed on the W-9 submitted by the Contractor with the returned, signed contract. In order to expedite payment, the Contractor may register for Electronic Funds Transfer by updating its registration with the Vendor Management Unit in the Office of the State Comptroller. Vendor support information is available at <http://www.sfs.ny.gov> as well as [helpdesk@sfs.ny.gov](mailto:helpdesk@sfs.ny.gov) and toll-free at (855) 233-8363.
- D. Contractor shall agree that payments for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Agency, in the Agency's sole discretion, due to extenuating circumstances. Such electronic payments shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller website at [www.osc.state.ny.us](http://www.osc.state.ny.us), by e-mail at [HelpDesk@sfs.ny.gov](mailto:HelpDesk@sfs.ny.gov), or by telephone at (518) 457-7737 or toll free (877) 737-4185. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract that are payable by the State Comptroller if it does not comply with the State Comptroller's electronic

payment procedures, except where the Agency has expressly authorized payment by paper check as set forth above.

### **5.13 CPI Price Adjustments**

Not Applicable.

### **5.14 Prime Contractor/Subcontractor**

The successful Bidder shall act as prime Contractor under the Contract and shall be held solely responsible for Contractor performance by the Bidder, its partners, officers, employees, Subcontractors and agents. The Bidder shall be responsible for payment of all Subcontractors and suppliers, including all third-party service providers contracted by or through the Bidder in performance of the Contract.

Where Services are supplied by or through the Contractor under the Contract, it is mandatory for the Contractor to assume full integration responsibility for delivery, installation, maintenance, performance and support services for such items, as applicable. The Contractor shall also be responsible for payment of any license fees, rents or other monies due third parties for Services or materials provided under the Contract.

### **5.15 Diesel**

Contractor certifies and warrants that all heavy-duty vehicles, as defined in New York State Environmental Conservation Law (ECL) section 19-0323, to be used under this Contract will comply with the specifications and provisions of ECL section 19-0323, as well as any regulations promulgated pursuant thereto, including NYCRR Part 248; which, requires the use of Best Available Retrofit Technology (BART) and Ultra-Low Sulfur Diesel (ULSD) fuel.

### **5.16 Advertising**

The Contractor agrees not to use the Agency's name, logos, images, or any data or results arising from this procurement process or Contract as a part of any commercial advertising without prior written approval by OPRHP.

### **5.17 Termination Provisions**

In addition to the provisions for termination set forth in Appendix B, Section 51, Termination, the following apply:

#### *5.17.1 Lobby Law Termination Provision*

OPRHP reserves the right to terminate this contract in the event it is found that this certification filed by the Contractor, in accordance with NYS Finance Law 139-k, was intentionally false or incomplete. Upon such finding, OPRHP may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this contract.

#### *5.17.2 Termination Pursuant to Tax Law §5-a*

the Agency reserves the right to terminate this Contract in the event it is found that the certification filed by the Contractor in accordance with §5-a of the Tax Law was not timely filed during the term of the Contract, or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, the Agency may exercise its termination right by providing written notification to the Contractor.

#### *5.17.3 Termination Pursuant to Vendor Responsibility (for Non-Responsibility):*

Upon written notice to the Contractor and a reasonable opportunity to be heard with appropriate OPRHP officials or staff, the Contract may be terminated by the Commissioner or his or her

designee, at the Contractor's expense, where the Contractor is determined by the Commissioner or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

## 5.18 Vendor Responsibility Provisions

The State must conduct business only with responsible entities.

### 5.18.1 General Responsibility

The contractor shall, at all times during the Contract term, remain responsible. The Contractor agrees, if requested by the Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

### 5.18.2 Suspension of Work (for Non-Responsibility)

The Commissioner or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

## 5.19 Insurance Requirements

OPRHP insurance requirements are set forth in *Appendix F, Insurance Requirements*.

## 5.20 Prevailing Wages / Payroll Certification

The work under this contract has been determined to be a public work pursuant to Article 8 of the New York Labor Law. That law requires prevailing wages to be paid. A willful violation of such may result in civil penalties and debarment from public contracting in the State of New York.

The applicable Prevailing Wage Rate Schedule for this bid and subsequently awarded contract is:

Prevailing Wage Schedule	
PRC Number	PRC# 2020009847 - Hempstead Lake SP - Exhibits
Link	<a href="http://apps.labor.ny.gov/wpp/publicViewProject.do?method=showlt&amp;id=1503814">http://apps.labor.ny.gov/wpp/publicViewProject.do?method=showlt&amp;id=1503814</a>

OPRHP reserves the right to request that payroll certification reports be submitted with each invoice. Failure to provide this requested documentation shall result in non-payment of invoices. Failure to provide this documentation shall result in non-payment of invoices. Additional requirements can be found in the Prevailing Wage Rate Schedule.

## 5.21 Contractor's Compensatory Liability

If the Contractor fails to complete any of the specified services within the timeframe required, OPRHP reserves the right to have such work completed either by another company or with in-house staff. In any such event, the Contractor shall be liable to reimburse OPRHP for all costs incurred to complete the work. OPRHP further reserves the right to collect such reimbursement from any outstanding payments due to the Contractor.



**5.22 Warranties**

Contractor warrants that the services acquired under the resultant contract will be provided in a professional and workmanlike manner in accordance with industry standards.

Unless otherwise indicated, all materials and workmanship provided under the resultant contract shall be warranted for a minimum of one year. Where the Contractor, Product manufacturer, or service provider generally offers additional or more advantageous warranties, such additional or more advantageous warranty shall apply. All warranties contained in the resultant contract shall survive the termination of the resultant contract.

**5.23 Security Procedures**

Please note OPRHP locations may have on-site security policies that must be followed. The Contractor will work with OPRHP to obtain necessary clearances. The Contractor may be required to provide information such as, but not limited to, the company name, the employee's name (as it appears on valid driver license or photo identification), vehicle make, model and license plate, etc. to OPRHP.

**5.24 Travel, Meals and Lodging**

N/A

**5.25 Damages**

It is the Contractor's responsibility to replace or repair any property lost or damaged in the course of performing the contract through no fault of OPRHP. If, during the term of the contract, loss or damage to property occurs through no fault of OPRHP, OPRHP has the right to withhold monies from the Contractor equivalent to the costs of the loss or damage sustained until the property is returned by the winning bidder to the condition immediately preceding the loss or damage, either by repair or replacement. OPRHP will not be liable for any deductible through any claim and retains the right to inspect and reject insufficient repairs.

**5.26 Contract Staffing Requirements**

The awarded bidder shall provide capable personnel to effectuate the business relationship, discovery, implementation, and ongoing services of the resultant contract. Any changes to the Contractor's project team must be approved by OPRHP. The contractor shall provide for the continuity of the responsibilities of any position that must be reassigned or replaced with a qualified replacement made available within ten (10) business days, subject to the review and approval by OPRHP. Should the need arise to make substitutions for any member of the project team, the Contractor will promptly provide resumes of comparably experienced staff for OPRHP's review and approval.

**5.27 Additional Consultant Hours**

N/A

**5.28 Vehicles**

Vehicles to be used in the performance of this service will be clearly marked as property of the Contractor, and will travel to and from the service areas strictly in accordance with the directions and/or maps furnished by park staff.

**5.29 Retainage**

Not Applicable.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.

TABLE OF CONTENTS

	<b>Page</b>
<b>1. Executory Clause</b>	<b>3</b>
<b>2. Non-Assignment Clause</b>	<b>3</b>
<b>3. Comptroller's Approval</b>	<b>3</b>
<b>4. Workers' Compensation Benefits</b>	<b>3</b>
<b>5. Non-Discrimination Requirements</b>	<b>3</b>
<b>6. Wage and Hours Provisions</b>	<b>3-4</b>
<b>7. Non-Collusive Bidding Certification</b>	<b>4</b>
<b>8. International Boycott Prohibition</b>	<b>4</b>
<b>9. Set-Off Rights</b>	<b>4</b>
<b>10. Records</b>	<b>4</b>
<b>11. Identifying Information and Privacy Notification</b>	<b>4</b>
<b>12. Equal Employment Opportunities For Minorities and Women</b>	<b>4-5</b>
<b>13. Conflicting Terms</b>	<b>5</b>
<b>14. Governing Law</b>	<b>5</b>
<b>15. Late Payment</b>	<b>5</b>
<b>16. No Arbitration</b>	<b>5</b>
<b>17. Service of Process</b>	<b>5</b>
<b>18. Prohibition on Purchase of Tropical Hardwoods</b>	<b>5-6</b>
<b>19. MacBride Fair Employment Principles</b>	<b>6</b>
<b>20. Omnibus Procurement Act of 1992</b>	<b>6</b>
<b>21. Reciprocity and Sanctions Provisions</b>	<b>6</b>
<b>22. Compliance with Breach Notification and Data Security Laws</b>	<b>6</b>
<b>23. Compliance with Consultant Disclosure Law</b>	<b>6</b>
<b>24. Procurement Lobbying</b>	<b>7</b>
<b>25. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates and Subcontractors</b>	<b>7</b>
<b>26. Iran Divestment Act</b>	<b>7</b>
<b>27. Admissibility of Contract</b>	<b>7</b>

## **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, licenser, 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 \$25,000, 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 § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**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, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. 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 (2 NYCRR § 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 Part 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 clause. 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  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

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  
633 Third Avenue  
New York, NY 10017  
212-803-2414  
email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) 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, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

**22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

**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 §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 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 § 5-a, if the contractor fails to make the certification required by Tax Law § 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.

**26. IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

**27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT.** Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

**APPENDIX B**

**GENERAL SPECIFICATIONS  
FOR OPRHP CONTRACTS**

TABLE OF CONTENTS

<u>GENERAL</u>	<u>PAGE</u>	<u>TERMS &amp; CONDITIONS (CONT.)</u>	<u>PAGE</u>
1. Applicability	1	39. Title and Risk of Loss	8
2. Governing Law	1	40. Re-Weighing Product	8
3. Appendix A	1	41. Product Substitution	8
4. Ethics Compliance	1	42. Rejected Product	8
5. Definitions	1	43. Installation	8
		44. Repaired or Replaced Products, Parts, or Components	9
		45. On-Site Storage	9
		46. Employees, Subcontractors and Agents	9
		47. Assignment	9
		48. Subcontractors and Suppliers	9
		49. Performance/Bid Bond	9
		50. Suspension of Work	9
		51. Termination	9
		52. Savings/Force Majeure	10
		53. Contract Invoicing	10
		54. Default – By Agency	11
		55. Prompt Payments	11
		56. Remedies for Breach	11
		57. Assignment of Claim	11
		58. Toxic Substances	11
		59. Independent Contractor	12
		60. Security	12
		61. Cooperation with Third Parties	12
		62. Contract Term - Renewal	12
		63. Warranties	12
		64. Legal Compliance	13
		65. Indemnification	13
		66. Indemnification Relating to Infringement	13
		67. Limitation of Liability	14
		68. Agency's Dispute Resolution Procedures	14
		<b><u>THE FOLLOWING CLAUSES PERTAIN TO TECHNOLOGY &amp; NEGOTIATED CONTRACTS</u></b>	
		69. Software License Grant	14
		70. Product Acceptance	15
		71. Audit of Licensed Product Usage	16
		72. Ownership/Title to Project Deliverables	16
		73. Proof of License	17
		74. Product Version	17
		75. Changes to Product or Service Offerings	17
		76. No Hardstop/Passive License Monitoring	17
		77. Source Code Escrow for Licensed Product	17
<b><u>BID SUBMISSION</u></b>			
6. International Bidding	3		
7. Bid Opening	3		
8. Late Bids Rejected	3		
9. Bid Contents	3		
10. Extraneous Terms	3		
11. Confidential/Trade Secret Materials	4		
12. Prevailing Wage Rates - Public Works and Building Services Contracts	4		
13. Taxes	4		
14. Expenses Prior to Contract Execution	5		
15. Advertising Results	5		
16. Product References	5		
17. Remanufactured, Recycled, Recyclable or Recovered Materials	5		
18. Products Manufactured in Public Institutions	5		
19. Pricing	5		
20. Drawings	6		
21. Site Inspection	6		
22. Purchasing Card	6		
23. Samples	6		
<b><u>BID EVALUATION</u></b>			
24. Bid Evaluation	6		
25. Tie Bids	7		
26. Quantity Changes Prior To Award	7		
27. Clarification / Revisions	7		
28. Timeframe for Offers	7		
<b><u>TERMS &amp; CONDITIONS</u></b>			
29. Contract Creation/Execution	7		
30. Official Use Only/No Personal Use	7		
31. Modification of Contract Terms	7		
32. Scope Changes	7		
33. Estimated/Specific Quantity Contracts	7		
34. Emergency Contracts	7		
35. Purchase Orders	7		
36. Product Delivery	8		
37. Weekend and Holiday Deliveries	8		
38. Shipping/Receipt of Product	8		

**GENERAL**

**1. APPLICABILITY** The terms and conditions set forth in this Appendix B are expressly incorporated in and applicable to all procurements and resulting procurement contracts let by the New York State Office of Parks, Recreation and Historic Preservation (“OPRHP” or the “Agency”), or let by any other Issuing Entity where incorporated by reference in its Bid Documents. Appendix B shall govern such procurements or contracts unless expressly modified or amended by the terms of a Bid Specification, Solicitation, or a negotiated Contract/Clarification document, if any. Captions are intended as descriptive and are not intended to limit or otherwise restrict the terms and conditions set forth herein.

**2. GOVERNING LAW** This procurement, the resulting Contract and/or any purchase orders issued hereunder shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise, and actions or proceedings arising from the Contract shall be heard in a court of competent jurisdiction in the State of New York.

**3. APPENDIX A** The terms of Appendix A (*Standard Clauses for New York State Contracts*) are expressly incorporated herein.

**4. ETHICS COMPLIANCE** All Bidders/Contractors and their employees must comply with the requirements of Sections 73 and 74 of the Public Officers Law, other State codes, rules, regulations and executive orders establishing ethical standards for the conduct of business with New York State. In signing the Bid, Bidder certifies full compliance with those provisions for any present or future dealings, transactions, sales, contracts, services, offers, relationships, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in disqualification from the bidding process, termination of contract, and/or other civil or criminal proceedings as required by law.

**5. DEFINITIONS** Terms used herein shall have the following meanings:

**a. AFFILIATE** Any individual or other legal entity (including, but not limited to sole proprietor, partnership, limited liability company, firm or corporation) that effectively controls another company in which (a) the Bidder owns more than 50% of the ownership; or (b) any individual or other legal entity which owns more than 50% of the ownership of the Bidder. In addition, if a Bidder owns less than 50% of the ownership of another legal entity, but directs or has the right to direct such entity’s daily operations, then that entity shall be considered an Affiliate hereunder.

**b. AGENCY** The State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York, including the Office of Parks, Recreation and Historic Preservation (“OPRHP”).

**c. ATTORNEY GENERAL** Attorney General of the State of New York.

**d. BID** A response to the Solicitation submitted by a Bidder to provide Products.

**e. BIDDER** Any person or entity who submits a response to the Solicitation. At the time that a Bidder executes a Contract with the State, the Bidder shall become a “Contractor.” See also “Contractor.”

**f. BID SPECIFICATIONS** A written description drafted by OPRHP setting forth the specific terms of the intended procurement, which may include: physical or functional characteristics, the nature of a Product, any description of the work to be performed, Products to be provided, the necessary qualifications of the Bidder, the capacity and capability of the Bidder to successfully carry out the proposed Contract, or the process for achieving specific results and/or anticipated outcomes or any other requirement necessary to perform work. Where this Appendix B is incorporated in negotiated Contracts that have not been competitively solicited, the term “Bid Specifications” shall be deemed to refer to the terms and conditions set forth in the negotiated Contract and associated documentation.

**g. COMMISSIONER** The Commissioner of the Agency.

**h. COMPTROLLER** Comptroller of the State of New York.

**i. CONTRACT** The writings that contain the agreement of the Agency and the Bidder/Contractor setting forth the total legal obligation between the parties as determined by applicable rules of law, and which most typically include the following classifications of public procurements:

**1. Agency Specific Contracts** Contracts where the written description for a Product or a particular scope of work is described and defined to meet the needs of one or more Agencies.

**2. Centralized Contracts** Single- or multiple-award Contracts where the written description for a Product or general scope of work is described and defined by OGS to meet the needs of Authorized Users. Centralized Contracts may be awarded through multiple awards or through adoption of another jurisdiction’s contract or on a sole source, single source, emergency, or competitive basis. Once established, procurements may be made from the selected Contractors without further competition or Mini-Bid unless otherwise required by the Contract.

**3. Back-Drop Contracts** Multiple-award Centralized Contracts where OGS provides a written description for a Product or general scope of work to meet the needs of Authorized Users. Bids may be submitted either at a date and time certain or may be accepted on a continuous or periodic recruitment basis, as set forth in the Solicitation. Selection of a Contractor from among Back-Drop contract holders for an actual Product, project or particular scope of work may be subsequently made as set forth in the Contract.

**4. Piggyback Contract** A Contract let by any department, agency or instrumentality of the United States government, or any department, agency, office, political subdivision or instrumentality of any state or group of states that is adopted and extended for use by OGS in accordance with the requirements of the State Finance Law.

**5. Contract Letter** A letter to the successful Bidder indicating acceptance of its Bid in response to a Solicitation. Unless otherwise specified, the issuance of a letter of acceptance forms a Contract but is not an order for Product, and the Contractor should not take any action with respect to actual Contract deliveries except on the basis of Purchase Orders sent from Authorized Users.

**j. CONTRACT AWARD NOTIFICATION**

An announcement to Bidders that a Contract has been recommended for award prior to any negotiation and approval by the Office of the New York State Comptroller.

**k. CONTRACTOR** Any successful Bidder to whom a Contract has been awarded by the Agency.

**l. DOCUMENTATION** The complete set of manuals (e.g., user, installation, instruction or diagnostic manuals) in either hard or electronic copy, that are necessary to enable the Agency to properly test, install, operate and enjoy full use of the Product.

**m. EMERGENCY** An urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk.

**n. ENTERPRISE** The total business operations in the United States of OPRHP without regard to geographic location where such operations are performed or the entity actually performing such operations on behalf of the OPRHP.

**o. ENTERPRISE LICENSE** A license grant of unlimited rights to deploy, access, use and execute Product anywhere within the Enterprise up to the maximum capacity stated on the Purchase Order or in the Contract.

**p. ERROR CORRECTIONS** Machine executable software code furnished by Contractor which corrects the Product so as to conform to the applicable warranties, performance standards and/or obligations of the Contractor.

**q. GROUP** A classification of a Product.

**r. INVITATION FOR BIDS (IFB)** A type of Solicitation that is most typically used for procurements where requirements can be stated and award will be made based on lowest price to the responsive and responsible Bidder or Bidders.

**s. ISSUING ENTITY** The Agency who issued the Solicitation for a procurement.

**t. LATE BID** A bid not received in the location established in the Bid Specifications on or before the date and time of the submission deadline specified in the Solicitation.

**u. LICENSED SOFTWARE** Software transferred upon the terms and conditions set forth in the Contract. "Licensed Software" includes Error Corrections, upgrades, enhancements or New Licensed Software Releases, and any deliverables due under a technical support/maintenance or service contract (e.g., patches, fixes, PTFs, programs, code or data conversion, or custom programming).

**v. LICENSEE** The Agency who acquires Product from Contractor by issuing a Purchase Order in accordance with the terms and conditions of the Contract; provided that, for purposes of compliance with an individual license, the term "Licensee" shall be deemed to refer separately to the Agency who took receipt of and who is executing the Product, and who shall be solely responsible for performance and liabilities incurred. In the case of acquisitions by State Agencies, the Licensee shall be the State of New York.

**w. LICENSE EFFECTIVE DATE** The date Product is delivered to the Agency. Where a License involves Licensee's right to copy a

previously licensed and delivered master copy of a program, the License Effective Date for additional copies shall be deemed to be the date on which the Purchase Order is executed.

**x. LICENSOR** A Contractor who transfers rights in proprietary Product to in accordance with the rights and obligations specified in the Contract.

**y. NEW LICENSED SOFTWARE RELEASES** (Licensed Software Revisions) Any commercially released revisions to the licensed version of Licensed Software as may be generally offered and available to the Agency that is currently on technical support/maintenance. New Licensed Software Releases involve a substantial revision of functionality from a previously released version of the Licensed Software. Updates are provided when available, and Contractor is under no obligation to develop any future Product or functionality.

**z. OGS** The New York State Office of General Services.

**aa. PROCUREMENT RECORD** Documentation by the Issuing Entity of the decisions made and approach taken during the procurement process, including but not limited to a copy of the Solicitation, any modification and justification for same, and any documentation considered necessary for contract review purposes by the Office of the New York State Comptroller.

**bb. PRODUCTS** Items or deliverables under any Solicitation or Contract and may include commodities, services and/or technology.

**cc. PROPRIETARY** Owned by a private individual, corporation or governmental entity under copyright, trademark, trade secret or patent laws.

**dd. PURCHASE ORDER** The Agency's fiscal form or format that is used when making a purchase (e.g., formal written Purchase Order, Purchasing Card, electronic Purchase Order, or other authorized instrument).

**ee. REQUEST FOR PROPOSALS (RFP)** A type of Solicitation which is used for procurements where factors in addition to cost are considered and weighted in awarding the contract and where the award will be made based on "best value," as defined by the State Finance Law.

**ff. REQUEST FOR QUOTATION (RFQ)** A type of Solicitation that can be used when a formal Bid opening is not required (e.g., discretionary, sole source, single source or emergency purchases).

**gg. RESPONSIBLE BIDDER** A Bidder that is determined to have financial and organizational capacity, legal authority, satisfactory previous performance, skill, judgment and integrity, and that is found to be competent, reliable and experienced, as determined by the Agency. For purposes of being deemed responsible, a Bidder must also be determined to be in compliance with Sections 139-j and 139-k of the State Finance Law relative to restrictions on contacts during the procurement process and disclosure of contacts and prior findings of non-responsibility under these statutes.

**hh. RESPONSIVE BIDDER** A Bidder meeting the specifications or requirements prescribed in the Solicitation, as determined by the Agency.

**ii. SINGLE SOURCE** A procurement where two or more Bidders can supply the required Product, and the Agency may award the contract to one Bidder over the other.

**jj. SITE** The location (street address) where Product will be delivered or executed.

**kk. SOLE SOURCE** A procurement where only one Bidder is capable of supplying the required Product.

**ll. SOLICITATION** Writings by the State setting forth the scope, terms, conditions and technical specifications for a procurement of Product. The procurement may be undertaken on a competitive or non-competitive basis. Such writings typically include, but are not limited to: Invitation for Bids (IFB), Request for Quotations (RFQ), Request for Proposals (RFP), addenda or amendments thereto, and terms and conditions that are incorporated by reference, including but not limited to Appendix A (Standard Clauses for NYS Contracts), Appendix B (General Specifications for OPRHP Contracts), and identified attachments. Where the procurement is undertaken on a non-competitive basis, the term “Solicitation” shall be deemed to refer to all the terms and conditions identified by the State.

**mm. SOURCE CODE** The programming statements or instructions written and expressed in any language understandable by a human being skilled in the art which are translated by a language compiler to produce executable machine object code.

**nn. STATE** State of New York.

**oo. STATE AGENCY OR AGENCIES** The State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York, including OPRHP.

**pp. SUBCONTRACTOR** Any individual or legal entity (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) who has entered into a contract, express or implied, for the performance of a portion of a Contract with a Contractor.

**qq. TERMS OF LICENSE** The terms and conditions set forth in the Contract that are in effect and applicable to a Purchase Order at the time of order placement.

**rr. VIRUS** Any computer code, whether or not written or conceived by Contractor, that disrupts, disables, harms, or otherwise impedes in any manner the operation of the Product, or any other associated software, firmware, hardware, or computer system (such as local area or wide-area networks), including aesthetic disruptions or distortions, but does not include security keys or other such devices installed by Product manufacturer.

### **BID SUBMISSION**

**6. INTERNATIONAL BIDDING** All Bids, including all information and Product required by the Solicitation or provided as explanation thereof, shall be submitted in English. All prices shall be expressed, and all payments shall be made, in United States Dollars (\$US). Any Bids submitted which do not meet the above criteria will be rejected.

**7. BID OPENING** Bids may, as applicable, be opened publicly. The Agency reserves the right at any time to postpone or cancel a scheduled Bid opening.

**8. LATE BIDS REJECTED** Any Bid received at the specified location after the time specified will be considered a late Bid. A late Bid shall not be considered for award unless: (i) no timely Bids meeting the requirements of the Solicitation are received or, (ii) in the case of a multiple award, an insufficient number of timely Bids were received to satisfy the multiple award; and acceptance of the late Bid is in the best interests of the Agency. Bids submitted for continuous or periodic recruitment contract awards must meet the submission requirements associated with the Solicitation. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of the Agency, shall not excuse late Bid submissions. Similar types of delays, including but not limited to, bad weather, or security procedures for parking and building admittance, shall not excuse late Bid submissions. Determinations relative to Bid timeliness shall be at the sole discretion of the Agency.

**9. BID CONTENTS** Bids must be complete and legible. All bids must be signed. All information required by the Bid Specifications must be supplied by the Bidder on the forms or in the format specified. No alteration, erasure or addition is to be made to the Solicitation. Changes may be ignored by the Agency or may be grounds for rejection of the bid. Changes, corrections and/or use of white-out in the bid or Bidder’s response portion of the Bid Document must be initialed by an authorized representative of the Bidder. Bidders are cautioned to verify their bids before submission, as amendments to bids or requests for withdrawal of bids received by the Agency after the time specified for the bid opening, may not be considered

**10. EXTRANEOUS TERMS** Bids must conform to the terms set forth in the Solicitation. Extraneous terms or material deviations (including additional, inconsistent, conflicting or alternative terms) may render the Bid non-responsive and may result in rejection of the Bid.

Extraneous terms submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Bid or resulting Contract, but shall be deemed included for informational or promotional purposes only.

Only those extraneous terms that meet all the following requirements may be considered as having been submitted as part of the Bid:

- a. Each proposed extraneous term (addition, deletion, counter-offer, deviation, or modification) must be specifically enumerated in a writing which is not part of a pre-printed form;
- b. The writing must identify the particular Solicitation requirement (if any) that Bidder rejects or proposes to modify by inclusion of the extraneous term; and
- c. The Bidder shall enumerate the proposed addition, deletion, counter-offer, deviation, or modification from the Solicitation, and the reasons therefor.

No extraneous terms, whether or not deemed “material,” shall be incorporated into a Contract or Purchase Order unless submitted in accordance with the above and the Agency expressly accepts each such terms in writing. Acceptance and/or processing of the Bid shall not constitute such written acceptance of extraneous terms.

**11. CONFIDENTIAL/TRADE SECRET MATERIALS**

**a. CONTRACTOR** Confidential, trade secret or proprietary materials as defined by the laws of the State of New York must be clearly marked and identified as such upon submission by the Bidder. Marking the Bid as “confidential” or “proprietary” on its face or in the document header or footer shall not be considered by the Agency to be sufficient without specific justification as to why disclosure of particular information in the Bid would cause substantial injury to the competitive position of the Bidder. Bidders/Contractors intending to seek an exemption from disclosure of these materials under the Freedom of Information Law must request the exemption in writing, setting forth the reasons for the claimed exemption. The State’s receipt/acceptance of the claimed materials does not constitute a determination on the exemption request, which determination will be made in accordance with statutory procedures. Properly identified information that has been designated confidential, trade secret, or proprietary by the Bidder will not be disclosed except as may be required by the Freedom of Information Law or other applicable State and federal laws.

**b. AGENCY** Contractor warrants, covenants and represents that any confidential information obtained by Contractor, its agents, Subcontractors, officers, distributors, resellers or employees in the course of performing its obligations, including without limitation, security procedures, business operations information, or commercial proprietary information in the possession of the State or the Agency hereunder or received from another third party, will not be divulged to any third parties without the written consent of the Agency. Contractor shall not be required to keep confidential any such material that is publicly available through no fault of Contractor, independently developed by Contractor without reliance on confidential information of the Agency, or otherwise obtained under the Freedom of Information Law or other applicable New York State laws and regulations. This warranty shall survive termination of this Contract. Contractor further agrees to take commercially reasonable steps to inform its agents, Subcontractors, officers, distributors, resellers or employees of the obligations arising under this clause to ensure such confidentiality.

**12. PREVAILING WAGE RATES - PUBLIC WORKS AND BUILDING SERVICES CONTRACTS** If any portion of work being solicited is subject to the prevailing wage rate provisions of the Labor Law, the following shall apply:

**a. PREVAILING WAGE RATE APPLICABLE TO BIDS** A copy of the applicable prevailing wage rate schedule is attached to the Solicitation and may also be obtained by visiting [www.labor.ny.gov](http://www.labor.ny.gov) and typing in the search box: Prevailing Wage Schedule Request. Bidders must submit Bids which are based upon the prevailing hourly wages, and supplements in cash or equivalent benefits (i.e., fringe benefits and any cash or non-cash compensation which are not wages, as defined by law) that equal or exceed the applicable prevailing wage rate(s) for the location where the work is to be performed. Bidders may not submit Bids based upon hourly wage rates and supplements below the applicable prevailing wage rates as established by the New York State Department of Labor. Bids that fail to comply with this requirement will be disqualified.

**b. WAGE RATE PAYMENTS/CHANGES DURING CONTRACT TERM** The wages to be paid under any resulting Contract shall not be less than the prevailing rate of wages and supplements as set forth by law. It is required that the Contractor keep informed of all changes in the prevailing wage rates during the Contract term that apply to the classes of individuals supplied by the Contractor on any projects resulting from this Contract, subject to the provisions of the Labor Law. Contractor is solely liable for and must pay such

required prevailing wage adjustments during the Contract term for its employees as required by law and is responsible for ensuring any Subcontractors utilized on the Contract also comply with the prevailing wage provisions of the New York State Labor Law.

**c. ARTICLE 8 CONSTRUCTION/PUBLIC WORKS CONTRACTS** In compliance with Article 8, Section 220 of the New York State Labor Law:

**i. Posting** The Contractor must publicly post on the work Site, in a prominent and accessible place, a legible schedule of the prevailing wage rates and supplements.

**ii. Payroll Records** Contractors and Subcontractors must keep original payrolls or transcripts subscribed and affirmed as true under the penalties of perjury as required by law. For public works contracts over \$25,000 where the Contractor maintains no regular place of business in the State, such records must be kept at the work Site. For building services contracts, such records must be kept at the work Site while work is being performed.

**iii. Submission of Certified Payroll Transcripts for Public Works Contracts Only** Contractors and Subcontractors on public works Contracts must submit monthly payroll transcripts to the Agency issuing the Purchase Order for the work. This provision does not apply to Article 9 of the Labor Law building services contracts.

**iv. Day’s Labor** No laborers, workmen or mechanics in the employ of the Contractor, Subcontractor or other person doing or contracting to do all or part of the work contemplated by the Contract shall be permitted or required to work more than eight hours in any one calendar day or more than five calendar days in any one week except in cases of extraordinary emergency including fire, flood or danger to life or property. “Extraordinary emergency” shall be deemed to include situations in which sufficient laborers, workers and mechanics cannot be employed to carry on public work expeditiously as a result of such restrictions upon the number of hours and days of labor and the immediate commencement or prosecution or completion without undue delay of the public work is necessary in the judgment of the NYS Commissioner of Labor for the preservation of the Contract Site or for the protection of the life and limb of the persons using the Contract Site.

**d. ARTICLE 9 BUILDING SERVICES CONTRACTS** In compliance with Article 9, Section 230 of the New York State Labor Law:

**i. Payroll Records** Contractors and Subcontractors must keep original payrolls or transcripts subscribed and affirmed as true under the penalties of perjury as required by law. Where the Contractor or Subcontractor maintains no regular place of business in New York State, such records must be kept at the work Site while work is being performed.

**ii. Overtime** Employees of Contractors and Subcontractors who work in excess of eight hours in a day or forty hours in a week shall be paid at the overtime rate identified by the New York State Department of Labor.

**13. TAXES**

**a.** Unless otherwise specified in the Solicitation, Bid Specifications or Contract, the quoted Bid price includes all taxes applicable to the transaction.

b. Purchases made by the State of New York and the Agency are exempt from New York State and local sales taxes and, with certain exceptions, federal excise taxes. To satisfy the requirements of the New York State Sales tax exemption, either the Purchase Order issued by a State Agency or the invoice forwarded to authorize payment for such purchases will be sufficient evidence that the sale by the Contractor was made to the State, an exempt organization under Section 1116 (a) (1) of the Tax Law. No person, firm or corporation is, however, exempt from paying the State Truck Mileage and Unemployment Insurance or Federal Social Security taxes, which remain the sole responsibility of the Bidder/Contractor.

**14. EXPENSES PRIOR TO CONTRACT EXECUTION** The Agency is not liable for any costs incurred by a Bidder or Contractor in the preparation and production of a Bid, Mini-Bid, cost proposal revision, or for any work performed prior to Contract execution.

**15. ADVERTISING RESULTS** The prior written approval of the Agency is required in order for results of the Solicitation to be used by the Contractor as part of any commercial advertising. The Contractor shall also obtain the prior written approval of the Agency relative to the Solicitation or Contract for press or other media releases.

**16. PRODUCT REFERENCES**

a. “Or Equal” In all Solicitations or Bid Specifications, the words “or equal” are understood to apply where a copyrighted, brand name, trade name, catalog reference, or patented Product is referenced. References to such specific Product are intended as descriptive, not restrictive, unless otherwise stated. Comparable Product will be considered if proof of compatibility is provided, including appropriate catalog excerpts, descriptive literature, specifications and test data, etc. The Agency’s decision as to acceptance of the Product as equal shall be final.

b. **Discrepancies in References** In the event of a discrepancy between the model number referenced in the Solicitation or Bid Specifications and the written description of the Products that cannot be reconciled, then the written description shall prevail.

**17. REMANUFACTURED, RECYCLED, RECYCLABLE OR RECOVERED MATERIALS** Upon the conditions specified in the Solicitation and in accordance with the laws of the State of New York, Contractors are encouraged to use recycled, recyclable or recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the Product or packaging unless such use is precluded due to health, welfare, safety requirements or in the Solicitation. Contractors are further encouraged to offer remanufactured Products to the maximum extent practicable without jeopardizing the performance or intended end use of the Product unless such use is precluded due to health, welfare, safety requirements or by the Solicitation. Where such use is not practical, suitable, or permitted by the Solicitation, Contractor shall deliver new materials in accordance with the “Warranties” set forth below.

Items with recycled, recyclable, recovered, refurbished or remanufactured content must be identified in the Bid or Bidder will be deemed to be offering new Product.

**18. PRODUCTS MANUFACTURED IN PUBLIC INSTITUTIONS** Bids offering Products that are manufactured or produced in public institutions will be rejected.

**19. PRICING**

a. **Unit Pricing** If required by the Solicitation, the Bidder should insert the price per unit specified and the price extensions in decimals, not to exceed four places for each item unless otherwise specified, in the Solicitation. In the event of a discrepancy between the unit price and the extension, the unit price shall govern unless, in the sole judgment of the Agency, such unit pricing is obviously erroneous.

b. **Net Pricing** Unless otherwise required by the Solicitation, prices shall be net, including transportation, customs, tariff, delivery and other charges fully prepaid by the Contractor to the destination(s) indicated in the Solicitation.

c. **“No Charge” Bid** When Bids are requested on a number of Products as a Group or lot, a Bidder desiring to Bid “no charge” on a Product in the Group or lot must clearly indicate such. Otherwise, such Bid may be considered incomplete and be rejected, in whole or in part, at the discretion of the Agency.

d. **Educational Pricing** All Products to be supplied for educational purposes that are subject to educational discounts shall be identified in the Bid and such discounts shall be made available to qualifying institutions.

e. **Third Party Financing** If Product acquisitions are financed through any third party financing, Contractor may be required as a condition of Contract award to agree to the terms and conditions of a “Consent & Acknowledgment Agreement” in a form acceptable to the Agency.

f. **Best Pricing Offer** During the Contract term, if substantially the same or a smaller quantity of a Product is sold by the Contractor outside of this Contract upon the same or similar terms and conditions as that of this Contract at a lower price to a federal, state or local governmental entity, the price under this Contract, at the discretion of the Agency, shall be immediately reduced to the lower price.

**g. Specific Price Decreases:**

(i) **GSA Changes:** Where net pricing under the Contract is based on an approved GSA schedule, price decreases shall take effect automatically during the Contract term and apply to Purchase Orders submitted on or after the date the approved GSA schedule pricing decreases during the Contract term; or

(ii) **Commercial Price List Reductions:** Where net pricing under the Contract is based on a discount from Contractor’s list prices, price decreases shall take effect automatically during the Contract term and apply to Purchase Orders submitted on or after the date Contractor lowers its pricing to its customers generally or to similarly situated government customers during the Contract term; or

(iii) **Special Offers/Promotions Generally:** Where Contractor generally offers more advantageous special price promotions or special discount pricing to other customers during the Contract term for a similar quantity, and the maximum price or discount associated with such offer or promotion is better than the discount or net pricing otherwise available under this Contract, such better price or discount shall apply for similar quantity transactions under this Contract for the life of such general offer or promotion; and



(iv) **Special Offers/Promotions to the Agency:** Contractor may offer the Agency, under either this Contract or any other contracting vehicle, competitive pricing which is lower than the net pricing set forth herein at any time during the Contract term and such lower pricing shall not be applied as a global price reduction under the Contract pursuant to the foregoing paragraph (iii).

Unless otherwise specified in the Solicitation, Contractor may offer lower prices or better terms (see Modification of Contract Terms) on any specific Purchase Order(s) from the Agency without being in conflict with, or having any obligation to comply on a global basis with, the terms of this clause.

**h. Cost Proposal Revisions** A Contractor may be solicited prior to Contract award to propose the best possible offer for the Product being bid on, in accordance with State Finance Law § 163(9)(c). A cost proposal revision must be a lower price than the initial price.

## 20. DRAWINGS

**a. Drawings Submitted With Bid** When the Solicitation requires the Bidder to furnish drawings and/or plans, such drawings and/or plans shall conform to the mandates of the Solicitation and shall, when approved by the Agency, be considered a part of the Bid and of any resulting Contract. All symbols and other representations appearing on the drawings shall be considered a part of the drawing.

**b. Drawings Submitted During the Contract Term** Where required to develop, maintain and deliver diagrams or other technical schematics regarding the scope of work, Contractor shall do so on an ongoing basis at no additional charge, and must, as a condition of payment, update drawings and plans during the Contract term to reflect additions, alterations, and deletions. Such drawings and diagrams shall be delivered to the Agency's representative.

**c. Accuracy of Drawings Submitted** All drawings shall be neat and professional in manner and shall be clearly labeled as to locations and type of Product, connections and components. Drawings and diagrams are to be in compliance with accepted drafting standards. Acceptance or approval of such plans shall not relieve the Contractor from responsibility for design or other errors of any sort in the drawings or plans, or from its responsibility for performing as required, furnishing Product, or carrying out any other requirements of the intended scope of work.

**21. SITE INSPECTION** Where a Site inspection is required, Bidder shall be required to inspect the Site, including environmental or other conditions, for pre-existing deficiencies that may affect the installed Product or that may affect Bidder's ability to properly deliver, install or otherwise provide the required Product. All inquiries regarding such conditions shall be made in writing. Bidder shall be deemed to have knowledge of any deficiencies or conditions that such inspection or inquiry might have disclosed. Bidder must provide a detailed explanation with its Bid if additional work is required under this clause in order to properly provide the required Product.

**22. PURCHASING CARD** The State's Purchasing Card program is designed to be an efficient and cost effective way to expedite purchases. The Purchasing Card (also referred to as the Procurement Card) is a credit card that enables the Agency to make authorized purchases directly from a Contractor without processing formal Purchase Orders. Purchasing Cards are issued to selected employees who are authorized to make purchases for the Agency. Cardholders can make purchases directly from any Contractor that accepts the Purchasing Card.

## 23. SAMPLES

**a. Bidder Supplied Samples** The Agency reserves the right to request from the Bidder/Contractor a representative sample(s) of the Product offered at any time prior to or after award of a Contract. Unless otherwise instructed, samples shall be furnished within the time specified in the request. Untimely submission of a sample may constitute grounds for rejection of the Bid or cancellation of the Contract. Samples must be submitted free of charge and be accompanied by the Bidder's name and address, any descriptive literature relating to the Product and a statement indicating how and where the sample is to be returned. Where applicable, samples must be properly labeled with the appropriate Solicitation or Contract reference.

A sample may be held by the Agency during the entire term of the Contract and for a reasonable period thereafter for comparison with deliveries. At the conclusion of the holding period, the sample, where feasible, will be returned as instructed by the Bidder, at the Bidder's expense and risk. Where the Bidder has failed to fully instruct the Agency as to the return of the sample (i.e., mode and place of return, etc.) or refuses to bear the cost of its return, the sample shall become the sole property of the receiving entity at the conclusion of the holding period.

**b. Enhanced Samples** When an approved sample exceeds the minimum specifications, all Product delivered must be of the same enhanced quality and identity as the sample. Thereafter, in the event of a Contractor's default, the Agency may procure a Product substantially equal to the enhanced sample from other sources, charging the Contractor for any additional costs incurred.

**c. Conformance with Samples** Submission of a sample (whether or not such sample is tested by, or for, the Agency) and approval thereof shall not relieve the Contractor from full compliance with all terms and conditions, performance related and otherwise, specified in the Solicitation. If in the judgment of the Agency the sample or Product submitted is not in accordance with the specifications or testing requirements prescribed in the Solicitation, the Agency may reject the Bid. If an award has been made, the Agency may cancel the Contract at the expense of the Contractor.

**d. Testing** All samples are subject to tests in the manner and place designated by the Agency, either prior to or after Contract award. Unless otherwise stated in the Solicitation, Bidder samples consumed or rendered useless by testing will not be returned to the Bidder. Testing costs for samples that fail to meet Contract requirements may be at the expense of the Contractor.

**e. Requests For Samples By the Agency** Requests for samples by the Agency require the consent of the Contractor. Where Contractor refuses to furnish a sample, the Agency may, in its sole discretion, make a determination on the performance capability of the Product or on the issue in question.

## BID EVALUATION

**24. BID EVALUATION** The Agency reserves the right to accept or reject any and all Bids, or separable portions of Bids, and waive technicalities, irregularities, and omissions if the Agency determines the best interests of the State will be served. The Agency, in its sole discretion, may accept or reject illegible, incomplete or vague Bids and his/her decision shall be final. A conditional or revocable Bid which clearly communicates the terms or limitations of acceptance may be

considered, and Contract award may be made in compliance with the Bidder's conditional or revocable terms in the Bid.

**25. TIE BIDS** In the event two Bids are found to be substantially equivalent, price shall be the basis for determining the award recipient. While prompt payment discounts will not be considered in determining the low Bid, the Agency may consider any prompt payment discount in resolving Bids which are otherwise tied. If two or more Bidders submit substantially equivalent Bids as to pricing or other factors, the decision of the Agency to award a Contract to one or more of such Bidders shall be final.

**26. QUANTITY CHANGES PRIOR TO AWARD** The Agency reserves the right, at any time prior to the award of a specific quantity Contract, to alter in good faith the quantities listed in the Solicitation. In the event such right is exercised, the lowest responsible Bidder meeting the Solicitation requirements will be advised of the revised quantities and afforded an opportunity to extend or reduce its Bid price in relation to the changed quantities. Refusal by the low Bidder to so extend or reduce its Bid price may result in the rejection of its Bid and the award of such Contract to the lowest responsible Bidder who accepts the revised qualifications.

**27. CLARIFICATION / REVISIONS** Prior to award, the Agency reserves the right to seek clarifications on Bids, request revisions to Bids, or to request any information deemed necessary for proper evaluation of Bids from all Bidders deemed to be eligible for contract award. Failure to provide requested information may result in rejection of the Bid.

**28. TIMEFRAME FOR OFFERS** The Agency reserves the right to make awards within sixty days after the date of the Bid opening or such other period of time as set forth in the Solicitation, during which period, Bids must remain firm and cannot be withdrawn. Where an award is not made within the sixty day period or other time specified as set forth in the Solicitation, the Bids shall remain firm until such later time as either a Contract is awarded or the Bidder delivers to the Agency written notice of the withdrawal of its Bid.

### **TERMS & CONDITIONS**

**29. CONTRACT CREATION / EXECUTION** Except for contracts governed by Article 11-B of the State Finance Law, subject to and upon receipt of all required approvals as set forth in the Solicitation, a Contract shall be deemed executed and created with the successful Bidder(s) upon the Agency's mailing or electronic communication to the address on the Bid/Contract of: (i) the final Contract Award Notice; (ii) a fully executed Contract; or (iii) a Purchase Order authorized by the Agency.

**30. OFFICIAL USE ONLY/NO PERSONAL USE** The Contract is only for official use by the Agency. Use of the Contract for personal or private purposes is strictly prohibited.

**31. MODIFICATION OF CONTRACT TERMS** The terms and conditions set forth in the Contract shall govern all transactions by the Agency under this Contract. The Contract may only be modified or amended upon mutual written agreement of the Agency and Contractor.

The Contractor may, however, offer the Agency more advantageous pricing, payment, or other terms and conditions than those set forth in the Contract. In such event, a copy of such terms shall be furnished to the Agency by the Contractor at the time of such offer.

Other than where such terms are more advantageous for the Agency than those set forth in the Contract, no alteration or modification of the terms of the Contract, including substitution of Product, shall be valid or binding against the Agency unless authorized by the Agency or specified in the Contract Award Notification. No such alteration or modification shall be made by unilaterally affixing such terms to Product upon delivery (including, but not limited to, attachment or inclusion of standard pre-printed order forms, product literature, "shrink wrap" terms accompanying software upon delivery, or other documents) or by incorporating such terms onto order forms, Purchase Orders or other documents forwarded by the Contractor for payment, notwithstanding the Agency's subsequent acceptance of Product, or that the Agency has subsequently processed such document for approval or payment.

**32. SCOPE CHANGES** The Agency reserves the right, unilaterally, to require, by written order, changes altering, adding to or deducting from the Contract specifications, such changes to be within the general scope of the Contract. The Agency may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the consent of the Contractor, which consent shall not be unreasonably withheld.

**33. ESTIMATED/SPECIFIC QUANTITY CONTRACTS** Estimated quantity contracts, also referred to as indefinite delivery/indefinite quantity contracts, are expressly agreed and understood to be made for only the quantities, if any, actually ordered during the Contract term. No guarantee of any quantity is implied or given. Unless otherwise set forth in the Bid Specifications, contracts for services and technology are completely voluntary as to use, and therefore no quantities are guaranteed.

With respect to any specific quantity stated in the Contract, the Agency reserves the right after award to order up to 20% more or less (rounded to the next highest whole number) than the specific quantities called for in the Contract. Notwithstanding the foregoing, the Agency may purchase greater or lesser percentages of Contract quantities should the Agency and Contractor so agree. Such agreement may include an equitable price adjustment.

**34. EMERGENCY CONTRACTS** In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or the Commissioner of the Agency determines pursuant to his/her authority under Section 163(10)(b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of Product, the Commissioner reserves the right to obtain such Product from any source, including but not limited to this Contract(s), as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim for lost profits for Product procured from other sources pursuant to this clause. The reasons underlying the finding that an emergency exists shall be included in the procurement record.

**35. PURCHASE ORDERS** Unless otherwise authorized in writing by the Agency, no Product is to be delivered or furnished by Contractor until transmittal of an official Purchase Order from the Agency. Unless terminated or cancelled pursuant to the authority vested in the Agency, Purchase Orders shall be effective and binding upon the Contractor when placed in the mail or electronically transmitted prior to the termination of the Contract period, addressed to the Contractor at the address for receipt of orders set forth in the Contract or in the Contract Award Notification.

All Purchase Orders issued pursuant to a Contract let by the Agency must bear the appropriate Contract number and, if necessary, required

State approvals. As deemed necessary, the Agency may confirm pricing and other Product information with the Contractor prior to placement of the Purchase Order. The State reserves the right to require any other information from the Contractor which the State deems necessary in order to complete any Purchase Order placed under the Contract. Unless otherwise specified, all Purchase Orders against Contracts will be placed by the Agency directly with the Contractor and any discrepancy between the terms stated on the Contractor's order form, confirmation or acknowledgment, and the Contract terms shall be resolved in favor of the terms most favorable to the Agency.

The Purchase Order shall indicate the address for delivery of the Product. The Agency shall confirm pricing, supported hardware platforms and model availability with Contractor prior to placement of orders. Contractor's order form shall, at a minimum, contain the NYS Product reference number, license type, price, and must separately itemize quantities for software, documentation, and services. The State reserves the right to require any other information from the Contractor which the State deems necessary in order to verify any Purchase Orders placed under the Contract.

**36. PRODUCT DELIVERY** Delivery must be made as ordered to the address specified on the Purchase Order and in accordance with the terms of the Contract. Delivery shall be made within thirty calendar days after receipt of a Purchase Order by the Contractor, unless otherwise agreed to by the Agency and the Contractor. The decision of the Agency as to compliance with delivery terms shall be final. The burden of proof for delay in receipt of a Purchase Order shall rest with the Contractor. In all instances of a potential or actual delay in delivery, the Contractor shall immediately notify the Agency, and confirm in writing the explanation of the delay, and take appropriate action to avoid any subsequent late deliveries. Any extension of time for delivery must be requested in writing by the Contractor and approved in writing by the Agency. Failure to meet such delivery time schedule may be grounds for cancellation of the order or, in the Agency's discretion, the Contract.

**37. WEEKEND AND HOLIDAY DELIVERIES** Unless otherwise specified in the Contract or by the Agency, deliveries will be scheduled for ordinary business hours, Monday through Friday (excluding legal holidays observed by the State of New York). Deliveries may be scheduled by mutual agreement for Saturdays, Sundays or legal holidays observed by the State of New York where the Product is for daily consumption, an emergency exists, the delivery is a replacement, delivery is late, or other reasonable circumstance in which event the convenience of the Agency shall govern.

**38. SHIPPING/RECEIPT OF PRODUCT**

**a. Packaging** Product shall be securely and properly packed for shipment, storage and stocking in appropriate, clearly labeled shipping containers and according to accepted commercial practice, without any extra charges for packing materials, cases or other types of containers. The container shall become and remain the property of the Agency unless otherwise specified in the Contract documents.

**b. Shipping Charges** Unless otherwise stated in the Contract, all deliveries shall be deemed to be freight on board (F.O.B.) destination tailgate delivery at the dock of the Agency. Unless otherwise agreed, items purchased at a price F.O.B. shipping point plus transportation charges shall not relieve the Contractor from responsibility for safe and proper delivery notwithstanding the Agency's payment of transportation charges. Contractor shall be responsible for ensuring that the bill of lading states "charges prepaid" for all shipments.

**c. Receipt of Product** The Contractor shall be solely responsible for assuring that deliveries are made to personnel authorized to accept delivery on behalf of the Agency. Any losses resulting from the Contractor's failure to deliver Product to authorized personnel shall be borne exclusively by the Contractor.

**39. TITLE AND RISK OF LOSS** Notwithstanding the form of shipment, title or other property interest, risk of loss shall not pass from the Contractor to the Agency until the Products have been received, inspected and accepted by the receiving entity. Acceptance shall occur within a reasonable time or in accordance with such other defined acceptance period as may be specified in the Contract or Purchase Order. Mere acknowledgment by Agency personnel of the delivery or receipt of goods (e.g., signed bill of lading) shall not be deemed or construed as acceptance of the Products received. Any delivery of Product that is substandard or does not comply with the Contract may be rejected or accepted on an adjusted price basis, as determined by the Agency.

**40. RE-WEIGHING PRODUCT** Deliveries are subject to re-weighing at the point of destination by the Agency. If shrinkage occurs which exceeds that normally allowable in the trade, the Agency shall have the option to require delivery of the difference in quantity or to reduce the payment accordingly. Such option shall be exercised in writing by the Agency.

**41. PRODUCT SUBSTITUTION** In the event a specified Product listed in the Contract becomes unavailable or cannot be supplied by the Contractor for any reason (except as provided for in the Savings/Force Majeure clause), a Product deemed in writing by the Agency to be equal to or better than the specified Product must be substituted by the Contractor at no additional cost or expense to the Agency. Unless otherwise specified, any substitution of Product prior to the Agency's written approval may be cause for termination of Contract.

**42. REJECTED PRODUCT** When Product is rejected, it must be removed by the Contractor from the premises of the Agency within ten calendar days of notification of rejection by the Agency. Upon notification of rejection, risk of loss of rejected or non-conforming Product shall remain with Contractor. Rejected items not removed by the Contractor within ten calendar days of notification shall be regarded as abandoned by the Contractor, and the Agency shall have the right to dispose of Product as its own property. The Contractor shall promptly reimburse the Agency for any and all costs and expenses incurred in storage or effecting removal or disposition after the ten-calendar-day period.

**43. INSTALLATION** Where installation is required, Contractor shall be responsible for placing and installing the Product in the required locations. All materials used in the installation shall be of good quality and shall be free from any and all defects that would mar the Product or render it unsound. Installation includes the furnishing of any equipment, rigging and materials required to install or place the Product in the proper location. The Contractor shall protect the Site from damage for all its work and shall repair damages or injury of any kind caused by the Contractor, its employees, officers or agents. If any alteration, dismantling or excavation, etc. is required to effect installation, the Contractor shall thereafter promptly restore the structure or Site. Work shall be performed to cause the least inconvenience to the Agency and with proper consideration for the rights of other Contractors or workers. The Contractor shall promptly perform its work and shall coordinate its activities with those of other Contractors. The Contractor shall clean up and remove all debris and rubbish from its work as required or directed. Upon completion of the work, the building and surrounding area of work shall be left clean and

in a neat, unobstructed condition, and everything in satisfactory repair and order.

**44. REPAIRED OR REPLACED PRODUCTS, PARTS, OR COMPONENTS**

Where the Contractor is required to repair, replace or substitute Product or parts or components of the Product under the Contract, the repaired, replaced or substituted Products shall be subject to all terms and conditions for new parts and components set forth in the Contract including warranties, as set forth in the Warranties clause herein. Replaced or repaired Product or parts and components of such Product shall be new and shall, if available, be replaced by the original manufacturer's component or part. Remanufactured parts or components meeting new Product standards may be permitted by the Agency. Before installation, all proposed substitutes for the original manufacturers' installed parts or components must be approved by the Agency. The part or component shall be equal to or of better quality than the original part or component being replaced.

**45. ON-SITE STORAGE** With the written approval of the Agency, materials, equipment or supplies may be stored at the Agency's site(s) at the Contractor's sole risk.

**46. EMPLOYEES, SUBCONTRACTORS AND AGENTS**

All employees, Subcontractors or agents performing work under the Contract must be trained staff or technicians who meet or exceed the professional, technical and training qualifications set forth in the Contract, and must comply with all security and administrative requirements of the Agency. The Agency reserves the right to conduct a security background check or otherwise approve any employee, Subcontractor or agent furnished by Contractor and to refuse access to or require replacement of any personnel for cause based on professional, technical or training qualifications, quality of work or change in security status or non-compliance with the Agency's security or other requirements. Such approval shall not relieve the Contractor of the obligation to perform all work in compliance with the Contract terms. The Agency reserves the right to reject and/or bar from any facility for cause any employee, Subcontractor, or agent of the Contractor.

**47. ASSIGNMENT**

In accordance with Section 138 of the State Finance Law, the Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of the Contract or its right, title or interest therein, or its power to execute such Contract to any other person, company, firm or corporation in performance of the Contract without the prior written consent of the Agency (as applicable); provided, however, any consent shall not be unreasonably withheld, conditioned, delayed or denied. Notwithstanding the foregoing, the State shall not hinder, prevent or affect assignment of money by a Contractor for the benefit of its creditors. Prior to a consent to assignment of monies becoming effective, the Contractor shall file a written notice of such monies assignments with the State Comptroller. Prior to a consent to assignment of a Contract, or portion thereof, becoming effective, the Contractor shall submit the request for assignment to the Agency and seek written agreement from the Agency which will be filed with the State Comptroller. The Agency shall use reasonable efforts to promptly respond to any request by Contractor for an assignment, provided that Contractor supplies sufficient information about the party to whom the Contractor proposes to assign the Contract.

Upon notice to the Contractor, the Contract may be assigned without the consent of the Contractor to another State Agency or subdivision of the State pursuant to a governmental reorganization or assignment of functions under which the functions are transferred to a successor Agency or to another Agency that assumes responsibility for the Contract.

**48. SUBCONTRACTORS AND SUPPLIERS** The Agency reserves the right to reject any proposed Subcontractor or supplier for bona fide business reasons, which may include, but are not limited to: they are on the Department of Labor's list of companies with which New York State cannot do business; the Agency determines that the company is not qualified; the Agency determines that the company is not responsible; the company has previously provided unsatisfactory work or services; the company failed to solicit New York State certified minority- and women-owned business enterprises as required by prior Contracts.

**49. PERFORMANCE/BID BOND** The Agency reserves the right to require a Bidder or Contractor to furnish, without additional cost, a performance, payment or Bid bond, negotiable irrevocable letter of credit, or other form of security for the faithful performance of the Contract. Where required, such bond or other security shall be in the form prescribed by the Agency.

**50. SUSPENSION OF WORK** The Agency, in its sole discretion, reserves the right to suspend any or all activities under the Contract, at any time, in the best interests of the Agency. In the event of such suspension, the Contractor will be given a formal written notice outlining the particulars of such suspension. Examples of the reason for such suspension include, but are not limited to, a budget freeze or reduction in State spending, declaration of emergency, contract compliance issues or other circumstances. Upon issuance of such notice, the Contractor is not to accept any Purchase Orders, and shall comply with the suspension order. Activity may resume at such time as the Agency issues a formal written notice authorizing a resumption of performance under the Contract.

**51. TERMINATION**

**a. For Cause** For a material breach that remains uncured for more than thirty (30) calendar days or other longer period as specified by written notice to the Contractor, the Contract or Purchase Order may be terminated by the Agency at the Contractor's expense. Such termination shall be upon written notice to the Contractor. In such event, the Agency may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.

**b. For Convenience** This Contract may be terminated at any time by Agency for convenience upon sixty (60) calendar days or other longer period as specified by written notice, without penalty or other early termination charges due. Such termination of the Contract shall not affect any project or Purchase Order that has been issued under the Contract prior to the date of such termination. If the Contract is terminated pursuant to this subdivision, the Agency shall remain liable for all accrued but unpaid charges incurred through the date of the termination. Contractor shall use due diligence and fulfill any outstanding Purchase Orders.

**c. For Violation of Sections 139-j and 139-k of the State Finance Law** The Agency reserves the right to terminate the Contract in the event it is found that the certification filed by the Bidder in accordance with Section 139-k of the State Finance Law was intentionally false or intentionally incomplete. Upon such finding, the Agency may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.

**d. For Violation of Section 5-a of the New York State Tax Law** The Agency reserves the right to terminate the Contract in the event it is found that the certification filed by the Contractor in accordance with Section 5-a of the Tax Law is not timely filed during the term of the Contract or the certification furnished was intentionally false or

intentionally incomplete. Upon such finding, the Agency may exercise his or her termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.

**e. For Non-Responsibility** The Bidder agrees that if it is found by the State that the Bidder's responses to the Vendor Responsibility Questionnaire were intentionally false or intentionally incomplete, on such finding, the Agency may terminate the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Agency officials or staff, the Contract may be terminated by the Agency at the Contractor's expense where the Contractor is determined by the Agency to be non-responsible. In such event, the Agency may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

**f. Upon Conviction of Certain Crimes** The Agency reserves the right to terminate the Contract in the event it is found that a member, partner, director or officer of Contractor is convicted of one or more of the following: Bribery Involving Public Servants and Related Offenses as defined in Article 200 of the New York State Penal Law; Corrupting the Government as defined in Article 496 of the New York State Penal Law; or Defrauding the Government as defined in Section 195.20 of the New York State Penal Law.

**52. SAVINGS/FORCE MAJEURE** A force majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled and is not due to the negligence or willful misconduct of the affected party. Force majeure includes, but is not limited to, acts of God, acts of war, acts of public enemies, terrorism, strikes, fires, explosions, actions of the elements, floods, or other similar causes beyond the control of the Contractor or the Agency in the performance of the Contract where non-performance, by exercise of reasonable diligence, cannot be prevented.

The affected party shall provide the other party with written notice of any force majeure occurrence as soon as the delay is known and provide the other party with a written contingency plan to address the force majeure occurrence, including, but not limited to, specificity on quantities of materials, tooling, people, and other resources that will need to be redirected to another facility and the process of redirecting them. Furthermore, the affected party shall use its commercially reasonable efforts to resume proper performance within an appropriate period of time. Notwithstanding the foregoing, if the force majeure condition continues beyond thirty (30) days, the parties to the Contract shall jointly decide on an appropriate course of action that will permit fulfillment of the parties' objectives under the Contract.

The Contractor agrees that in the event of a delay or failure of performance by the Contractor under the Contract due to a force majeure occurrence:

- a. The Agency may purchase from other sources (without recourse to and by the Contractor for the costs and expenses thereof) to replace all or part of the Products which are the subject of the delay, which purchases may be deducted from the Contract quantities without penalty or liability to the State, or

- b. The Contractor will provide the Agency with access to Products first in order to fulfill orders placed before the force majeure event occurred. The Agency may accept allocated performance or deliveries during the occurrence of the force majeure event.

Neither the Contractor nor the Agency shall be liable to the other for any delay in or failure of performance under the Contract due to a force majeure occurrence. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of such causes of such delay or failure shall extend the period for performance to such extent as determined by the Contractor and the Agency to be necessary to enable complete performance by the Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.

Notwithstanding the above, at the discretion of the Agency where the delay or failure will significantly impair the value of the Contract to the State or to the Agency, the Agency may terminate the Contract or the portion thereof which is subject to delays, and thereby discharge any unexecuted portion of the Contract or the relative part thereof.

In addition, the Agency reserves the right, in his or her sole discretion, to make an equitable adjustment in the Contract terms and/or pricing should extreme and unforeseen volatility in the marketplace affect pricing or the availability of supply. "Extreme and unforeseen volatility in the marketplace" is defined as market circumstances which meet the following criteria: (i) the volatility is due to causes outside the control of Contractor; (ii) the volatility affects the marketplace or industry, not just the particular Contract source of supply; (iii) the effect on pricing or availability of supply is substantial; and (iv) the volatility so affects Contractor's performance that continued performance of the Contract would result in a substantial loss. In the event of a dispute between the Contractor and the Agency, such dispute shall be resolved in accordance with the Agency's Dispute Resolution Procedures set forth in herein; provided, however, that nothing in this clause shall excuse the Contractor from performing in accordance with the Contract as changed.

### **53. CONTRACT INVOICING**

**a. Invoicing** Contractor and the dealers/distributors/resellers designated by the Contractor, if any, shall provide complete and accurate billing invoices to the Agency in order to receive payment. Billing invoices submitted to the Agency must contain all information required by the Contract and the State Comptroller or other appropriate fiscal officer. Submission of an invoice and payment thereof shall not preclude the Agency from requesting reimbursement or demanding a price adjustment in any case where the Product delivered is found to deviate from the terms and conditions of the Contract or where the billing was inaccurate.

Contractor shall provide, upon request of the Agency, any and all information necessary to verify the accuracy of the billings. Such information shall be provided in a commercially reasonable manner as requested by the Agency. The Agency may direct the Contractor to provide the information to the State Comptroller.

**b. Payment of Contract Purchases made by the Agency when the State Comptroller is responsible for issuing such payment** The Agency and Contractor agree that payments for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Agency, in the Agency's sole discretion, due to extenuating circumstances. Such electronic payments

shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller website at [www.osc.state.ny.us](http://www.osc.state.ny.us), by e-mail at [HelpDesk@sfs.ny.gov](mailto:HelpDesk@sfs.ny.gov), or by telephone at (518) 457-7737 or toll free (877) 737-4185. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract that are payable by the State Comptroller if it does not comply with the State Comptroller's electronic payment procedures, except where the Agency has expressly authorized payment by paper check as set forth above.

**c. Payment of Contract Purchases made by the Agency when the State Comptroller is not responsible for issuing such payment** The Agency and Contractor agree that payments for such Contract purchases shall be billed directly by Contractor on invoices/vouchers, together with complete and accurate supporting documentation as required by the Agency. Such payments shall be as mandated by the appropriate governing law from the receipt of a proper invoice. The Agency strongly encourages the Contractor to establish electronic payments.

#### **54. DEFAULT – BY AGENCY**

**a. Breach by Agency** The Agency's breach shall not be deemed a breach of the Contract; rather, it shall be deemed a breach of the Agency's performance under the terms and conditions of the Contract.

**b. Failure to Make Payment** In the event the Agency fails to make payment to the Contractor for Products delivered, accepted and properly invoiced, within thirty calendar days of such delivery and acceptance, the Contractor may, upon five business days advance written notice to the Agency, suspend additional provision of Products to such entity until such time as reasonable arrangements have been made and assurances given by such entity for current and future Contract payments.

**c. Notice of Breach** Notwithstanding the foregoing, the Contractor shall, at least ten business days prior to declaring a breach of Contract by the Agency, by certified or registered mail, notify the Agency of the specific facts, circumstances and grounds upon which a breach will be declared.

**d. Insufficient basis** If the Contractor's basis for declaring a breach is insufficient, the Contractor's declaration of breach and failure to provide Products to the Agency may constitute a breach of the Contract, and the Agency may thereafter seek any remedy available at law or equity.

#### **55. PROMPT PAYMENTS**

**a. State Agencies** Upon acceptance of Product or as otherwise provided by Contract, Contractor may invoice for payment. The required payment date shall be thirty (30) calendar days, excluding legal holidays, from the receipt of a proper invoice, as determined in accordance with State Finance Law Section 179-f(2) and 2 NYCRR Part 18. The payment of interest on certain payments due and owed by the State Agency may be made in accordance with State Finance Law Sections 179-d et seq. and the implementing regulations (2 NYCRR § 18.1 et seq.).

**b. By Contractor** Should the Contractor be liable for any payments to the State hereunder, interest, late payment charges and collection fee charges will be determined and assessed pursuant to Section 18 of the State Finance Law.

**56. REMEDIES FOR BREACH** It is understood and agreed that all rights and remedies afforded below shall be in addition to all remedies or actions otherwise authorized or permitted by law:

**a. Cover/Substitute Performance** In the event of Contractor's material, uncured breach, the Agency may, with or without issuing a formal Solicitation: (i) purchase from other sources; or (ii) if the Agency is unsuccessful after making reasonable attempts, under the circumstances then-existing, to timely obtain acceptable replacement Product of equal or comparable quality, the Agency may acquire acceptable replacement Product of lesser or greater quality.

Such purchases may be deducted from the Contract quantity without penalty or liability to the State. The Agency shall accept allocated performance or deliveries during a period where Contractor is making good faith efforts to cure a material breach.

**b. Withhold Payment** In any case where a reasonable question of material, uncured non-performance by Contractor arises, payment may be withheld in whole or in part at the discretion of the Agency. Should Contractor and the Agency fail to agree upon the question of "materiality" in an instance of non-performance, such failure to agree shall be a dispute to be resolved in accordance with the Agency's Dispute Resolution Procedures.

**c. Bankruptcy** In the event that the Contractor files, or there is filed against Contractor, a petition under the U.S. Bankruptcy Code during the term of this Contract, the Agency may, at its discretion, make application to exercise their right to set-off against monies due the debtor or, under the doctrine of recoupment, be credited the amounts owed by the Contractor arising out of the same transactions.

**d. Reimbursement of Costs Incurred** The Contractor agrees to reimburse the Agency promptly for any and all additional costs and expenses incurred for acquiring acceptable replacement Product. Should the cost of cover be less than the Contract price, the Contractor shall have no claim to the difference. The Contractor covenants and agrees that in the event suit is successfully prosecuted for any default on the part of the Contractor, all costs and expenses, including reasonable attorney's fees, shall be paid by the Contractor.

Where the Contractor fails to timely deliver pursuant to the guaranteed delivery terms of the Contract, the Agency may obtain replacement Product temporarily and the cost of the replacement Product shall be deducted from the Contract quantity without penalty or liability to the State.

**e. Deduction/Credit** Sums due as a result of these remedies may be deducted or offset by the Agency from payments due, or to become due, the Contractor on the same or another transaction. If no deduction or only a partial deduction is made in such fashion the Contractor shall pay to the Agency the amount of such claim or portion of the claim still outstanding, on demand. The Agency reserves the right to determine the disposition of any rebates, settlements, restitution, damages, etc., that arise from the administration of the Contract.

**57. ASSIGNMENT OF CLAIM** Contractor hereby assigns to the State any and all claims for overcharges associated with this Contract that may arise under the antitrust laws of the United States, 15 USC Section 1, et seq. and the antitrust laws of the State of New York, General Business Law Section 340, et seq.

**58. TOXIC SUBSTANCES** Each Contractor furnishing a toxic substance, as defined by Section 875 of the Labor Law, shall provide

the Agency with not less than two copies of a Material Safety Data Sheet, which sheet shall include for each such substance the information outlined in Section 876 of the Labor Law.

Before any chemical product is used or applied on or in any building, a copy of the product label and Material Safety Data Sheet must be provided to and approved by the Agency representative.

**59. INDEPENDENT CONTRACTOR** It is understood and agreed that the legal status of the Contractor, its Subcontractors, agents, officers and employees under this Contract is that of an independent contractor, and in no manner shall they be deemed employees of the Agency, and therefore are not entitled to any of the benefits associated with such employment.

**60. SECURITY** Contractor warrants, covenants and represents that it will comply fully with all security procedures of the Agency in performance of the Contract including but not limited to physical, facility, documentary and cyber security rules, procedures and protocols.

**61. COOPERATION WITH THIRD PARTIES** The Contractor shall be responsible for fully cooperating with any third party, including but not limited to other Contractors or Subcontractors of the Agency, as necessary to ensure delivery or performance of Product.

**62. CONTRACT TERM - RENEWAL** The Agency may extend by mutual agreement of the Agency and the Contractor any stated renewal periods in the Contract.

**63. WARRANTIES**

**a. Product Performance** Contractor hereby warrants and represents that the Products acquired by the Agency under this Contract conform to the manufacturer's specifications, performance standards and Documentation and that the Documentation fully describes the proper procedure for using the Products.

**b. Title and Ownership** Contractor warrants and represents that it has (i) full ownership, clear title free of all liens, or (ii) the right to transfer or deliver specified license rights to any Products acquired by the Agency under this Contract. Contractor shall be solely liable for any costs of acquisition associated therewith. Contractor shall indemnify and hold harmless the Agency from any damages and liabilities (including reasonable attorneys' fees and costs) arising from any breach of Contractor's warranties as set forth herein.

**c. Product Warranty** Contractor further warrants and represents that Products, components or parts specified and furnished by or through Contractor, whether specified and furnished individually or as a system, shall be free from defects in material and workmanship and will conform to all requirements of the Contract for the manufacturer's standard commercial warranty period, if applicable, or for a minimum of one (1) year from the date of acceptance, whichever is longer (the "Product warranty period").

During the Product warranty period, defects in the materials or workmanship of Products, components, or parts specified and furnished by or through Contractor, whether specified and furnished individually or as a system, shall be repaired or replaced by Contractor at no cost or expense to the Agency. Contractor shall extend the Product warranty period for individual Products, or for the system as a whole, as applicable, by the cumulative periods of time, after notification, during which an individual Product, or the system as a whole, requires repairs or replacement resulting in down time or is in the possession of the

Contractor, its agents, officers, Subcontractors, distributors, resellers or employees ("extended warranty").

Any component or part replaced by the Contractor under the Contract warranties shall be guaranteed for the greater of: (i) the Product warranty period set forth herein; or (ii) the manufacturer's standard commercial warranty period offered for the component or part, if applicable.

All costs for materials, labor, and transportation incurred to repair or replace Products, parts, components, or systems as a whole during the warranty period shall be borne solely by the Contractor, and the State or the Agency shall in no event be liable or responsible therefor.

Where Contractor, the independent software vendor (ISV), or other third-party manufacturer markets any Product delivered by or through Contractor with a standard commercial warranty, such standard warranty shall be in addition to, and not relieve the Contractor from, Contractor's warranty obligations during the Product warranty and extended warranty periods. Where such standard commercial warranty covers all or some of the Product warranty or extended warranty periods, Contractor shall be responsible for the coordination during the Product warranty or extended warranty periods with ISV or other third-party manufacturers for warranty repair or replacement of ISV or other third-party manufacturer's Product.

Where Contractor, ISV or other third-party manufacturer markets any Product with a standard commercial warranty that goes beyond the Product warranty or extended warranty periods, Contractor shall notify the Agency and pass through the standard commercial warranty to the Agency at no additional charge; provided, however, that Contractor shall not be responsible for coordinating services under the standard commercial warranty after expiration of the Product warranty and extended warranty periods.

Unless recycled, recyclable, or recovered materials are available in accordance with the Remanufactured, Recycled, Recyclable or Recovered Materials clause, Product offered shall be standard new equipment, current model or most recent release of regular stock product with all parts regularly used with the type of equipment offered. Contractor further warrants and represents that no component or part has been substituted or applied contrary to the manufacturer's recommendations and standard practice.

Contractor shall not be responsible for any modification of the Products made by the Agency without Contractor's approval.

**d. Virus Warranty** The Contractor represents and warrants that any Licensed Software acquired under the Contract by the Agency does not contain any known Viruses. Contractor is not responsible for Viruses introduced at Licensee's Site.

**e. Date/Time Warranty** Contractor warrants that Product furnished pursuant to this Contract shall, when used in accordance with the Product Documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

Where Contractor is providing ongoing services, including but not limited to: (i) consulting, integration, code or data conversion, (ii) maintenance or support services, (iii) data entry or processing, or (iv) contract administration services (e.g., billing, invoicing, claim processing), Contractor warrants that services shall be provided in an accurate and

timely manner without interruption, failure or error due to the inaccuracy of Contractor's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting therefrom, including but not limited to the failure or untimely performance of such services.

**f. Workmanship Warranty** Contractor warrants that the services acquired under this Contract will be provided in a professional and workmanlike manner in accordance with industry standards. The Agency must notify Contractor of any services warranty deficiencies within ninety calendar days from performance of the services that gave rise to the warranty claim.

**g. Survival of Warranties** All warranties contained in this Contract shall survive the termination of this Contract.

**h. Prompt Notice of Breach** The Agency shall promptly notify the Contractor in writing of any claim of breach of any warranty provided herein.

**i. Additional Warranties** Where Contractor, Product manufacturer or service provider generally offers additional or more advantageous warranties than those set forth herein, Contractor shall offer or pass through any such warranties to the Agency.

**j. No Limitation of Rights** The rights and remedies of the State and the Agency provided in this clause are in addition to and do not limit any rights afforded to the State and the Agency by any other clause of the Contract.

**64. LEGAL COMPLIANCE** Contractor represents and warrants that it shall secure all notices and comply with all applicable laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract. Prior to award and during the Contract term and any renewals thereof, Contractor must establish to the satisfaction of the Agency that it meets or exceeds all requirements of the Solicitation and Contract and any applicable laws, including but not limited to, permits, licensing, and shall provide such proof as required by the Commissioner. Failure to comply or failure to provide proof may constitute grounds for the Agency to terminate or suspend the Contract, in whole or in part, or to take any other action deemed necessary by the Agency. Contractor also agrees to disclose information and provide affirmations and certifications to comply with Sections 139-j and 139-k of the State Finance Law.

**65. INDEMNIFICATION** Contractor shall be fully liable for the actions of its agents, employees, partners or Subcontractors and shall fully defend, indemnify and hold harmless the Agency from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by any intentional act or negligence of Contractor, its agents, employees, partners or Subcontractors, which shall arise from or result directly or indirectly from this Contract, without limitation; provided, however, that the Contractor shall not indemnify to the extent any claim, loss or damage arising hereunder solely due to the negligent act, failure to act, gross negligence or willful misconduct of the Agency.

The Agency shall give Contractor: (i) prompt written notice of any action, claim or threat of suit, or other suit for which Contractor is required to fully indemnify the Agency, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense,

and (iii) assistance in the defense of any such action, claim or suit at the expense of Contractor. Notwithstanding the foregoing, the State reserves the right to join such action, at its sole expense, if it determines there is an issue involving a significant public interest.

In the event that an action or proceeding at law or in equity is commenced against the Agency arising out of a claim for death, personal injury or damage to real or personal tangible property caused by any intentional or willful act, gross negligence, or negligence of Contractor, its agents, employees, partners or Subcontractors, which shall arise from or result directly or indirectly from the Products supplied under this Contract, and Contractor is of the opinion that the allegations in such action in whole or in part are not covered by the indemnification and defense provisions set forth in the Contract, Contractor shall immediately notify the Agency and the New York State Office of the Attorney General in writing and shall specify to what extent Contractor believes it is obligated to defend and indemnify under the terms and conditions of the Contract and to what extent it is not so obligated to defend and indemnify. Contractor shall in such event attempt to secure a continuance to permit the State and the Agency to appear and defend their interests in cooperation with Contractor, as is appropriate, including any jurisdictional defenses the State and the Agency may have. In the event of a dispute regarding the defense, the Contractor and the Attorney General shall try to reach an amicable resolution, but the Attorney General shall have the final determination on such matters.

#### **66. INDEMNIFICATION RELATING TO INFRINGEMENT**

The Contractor will also defend, indemnify and hold the Agency harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs in any action for infringement of a patent, copyright, trademark, trade secret or other proprietary right provided: (a) such claim arises solely out of the Products as supplied by the Contractor, and not out of any modification to the Products made by the Agency or by someone other than Contractor at the direction of the Agency without Contractor's approval, and (b) the Agency gives Contractor prompt written notice of any such action, claim suit or threat of suit alleging infringement.

The Agency shall give Contractor the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and to provide assistance in the defense of any such action, claim or suit at the expense of Contractor.

Such indemnity shall only be applicable in the event of claims, judgments, liabilities and/or costs that may be finally assessed against the Agency in any action for infringement of a patent, or of any copyright, trademark, trade secret or other third party proprietary right except to the extent such claims, judgments, liabilities and/or costs arise solely from the Agency's negligent act, failure to act, gross negligence or willful misconduct.

If usage of a Product shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion to take action in the following order of precedence: (i) to procure for the Agency the right to continue usage (ii) to modify the service or Product so that usage becomes non-infringing, and is of at least equal quality and performance; or (iii) to replace such Product or parts thereof, as applicable, with non-infringing Product of at least equal quality and performance. If the above remedies are not available, the parties shall terminate the Contract, in whole or in part as necessary and applicable, provided that the Agency is given a refund for any amounts paid for the period during which usage was not feasible.

In the event that an action at law or in equity is commenced against the



Agency arising out of a claim that the Agency's use of the Product under the Contract infringes any patent, copyright, trademark, trade secret or proprietary right, and Contractor is of the opinion that the allegations in such action in whole or in part are not covered by the indemnification and defense provisions set forth in the Contract, Contractor shall immediately notify the Agency and the New York State Office of the Attorney General in writing and shall specify to what extent Contractor believes it is obligated to defend and indemnify under the terms and conditions of the Contract and to what extent it is not so obligated to defend and indemnify. Contractor shall in such event protect the interests of the Agency and seek to secure a continuance to permit the Agency to appear and defend their interests in cooperation with Contractor, as is appropriate, including any jurisdictional defenses the Agency may have. This constitutes the Agency's sole and exclusive remedy for patent infringement, or for infringement of any other third party proprietary right.

**67. LIMITATION OF LIABILITY** Except as otherwise set forth in the Indemnification clause and the Indemnification Relating to Infringement clause, the limit of liability shall be as follows:

**a.** Contractor's liability for any claim, loss or liability arising out of, or connected with the Products provided, and whether based upon default, or other liability such as breach of contract, warranty, negligence, misrepresentation or otherwise, shall in no case exceed direct damages in: (i) an amount equal to two (2) times the charges specified in the Purchase Order for the Products forming the basis of the Agency's claim or (ii) five hundred thousand dollars (\$500,000), whichever is greater.

**b.** The Agency may retain such monies from any amount due Contractor as may be necessary to satisfy any claim for damages, costs and the like asserted against the Agency unless Contractor at the time of the presentation of claim shall demonstrate to the Agency's satisfaction that sufficient monies are set aside by the Contractor in the form of a bond or through insurance coverage to cover associated damages and other costs.

**c.** Notwithstanding the above, neither the Contractor nor the Agency shall be liable for any consequential, indirect or special damages of any kind which may result directly or indirectly from such performance, including, without limitation, damages resulting from loss of use or loss of profit by the Agency, the Contractor, or by others.

**68. AGENCY'S DISPUTE RESOLUTION PROCEDURES** The first step of the dispute resolution will be through conference between the Agency and the Contractor. The party initiating the process shall notify the other party in writing and set forth the issues for resolution and provide all necessary documentation. Unresolved disputes will be resolved by the Commissioner or his/her designee, whose decision is final and binding. During this period all work required hereunder shall be performed. If the Contractor pursues any legal or equitable remedy outside the Agency, the Contractor will continue to perform work in accordance with the direction of the Agency until such proceedings may be concluded and will continue to be paid in accordance with the Agreement, and less any amounts attributable to the dispute. Disputes that go to litigation must be pursued in a court of competent jurisdiction of the State of New York. New York law will govern the dispute and venue must be laid in Albany County, New York.

**THE FOLLOWING CLAUSES PERTAIN TO  
TECHNOLOGY & NEGOTIATED CONTRACTS**

**69. SOFTWARE LICENSE GRANT** Where Product is acquired on a licensed basis the following shall constitute the license grant:

**a. License Scope** Licensee is granted a non-exclusive, perpetual license to use, execute, reproduce, display, perform, or merge the Product within its business enterprise in the United States up to the maximum licensed capacity stated on the Purchase Order. Product may be accessed, used, executed, reproduced, displayed or performed up to the capacity measured by the applicable licensing unit stated on the Purchase Order (i.e., payroll size, number of employees, CPU, MIPS, MSU, concurrent user, workstation). Licensee shall have the right to use and distribute modifications or customizations of the Product to and for use by the Agency otherwise licensed to use the Product, provided that any modifications, however extensive, shall not diminish Licensor's proprietary title or interest. No license, right or interest in any trademark, trade name, or service mark is granted hereunder.

**b. License Term** The license term shall commence upon the License Effective Date, provided, however, that where an acceptance or trial period applies to the Product, the license term shall be extended by the time period for testing, acceptance or trial.

**c. Licensed Documentation** If commercially available, Licensee shall have the option to require the Contractor to deliver, at Contractor's expense: (i) one (1) hard copy and one (1) master electronic copy of the Documentation in a mutually agreeable format; (ii) hard copy instructions for access by downloading from the Internet; and (iii) hard copies of the Product Documentation by type of license in the following amounts, unless otherwise mutually agreed:

- Individual/Named User License - one (1) copy per License
- Concurrent Users - 10 copies per Site
- Processing Capacity - 10 copies per Site

Software media must be in a format specified by the Agency, without requiring any type of conversion.

Contractor hereby grants to Licensee a perpetual license right to make, reproduce (including downloading electronic copies of the Product) and distribute, either electronically or otherwise, copies of Product Documentation as necessary to enjoy full use of the Product in accordance with the Terms of License.

**d. Product Technical Support & Maintenance** Licensee shall have the option of electing the Product technical support and maintenance ("maintenance") set forth in the Contract by giving written notice to Contractor any time during the Contract term. Maintenance terms and any renewals thereof are independent of the expiration of the Contract term and shall not automatically renew.

Maintenance shall include, at a minimum, (i) the provision of Error Corrections, updates, enhancements, revisions, fixes, upgrades and New Licensed Software Releases to Licensee, and (ii) help desk assistance with locally accessible "800" or toll free, local telephone service, or alternatively on-line help desk accessibility. Contractor shall maintain the Product so as to provide Licensee with the ability to utilize the Product in accordance with the Product Documentation without significant functional downtime to its ongoing business operations during the technical support/maintenance term.

The Agency shall not be required to purchase maintenance for use of Product, and may discontinue maintenance at the end of any current maintenance term upon notice to Contractor. In the event that the Agency does not initially acquire or discontinue maintenance of licensed Product, it may, at any time thereafter, reinstate maintenance for Product without any additional penalties or other charges, by paying Contractor the amount which would have been due under the Contract for the period of time that such maintenance had lapsed, at then current NYS net maintenance rates.

**e. Permitted License Transfers** As Licensee's business operations may be altered, expanded or diminished, licenses granted hereunder may be transferred or combined for use at an alternative or consolidated Site not originally specified in the license, including transfers between Agencies ("permitted license transfers"). Licensee(s) do not have to obtain the approval of Contractor for permitted license transfers, but must give thirty (30) days prior written notice to Contractor of such move(s) and certify in writing that the Product is not in use at the prior Site. There shall be no additional license or other transfer fees due Contractor, provided that: (i) the maximum capacity of the consolidated machine is equal to the combined individual license capacity of all licenses running at the consolidated or transferred Site (e.g., named users, seats, or MIPS); or (ii) if the maximum capacity of the consolidated machine is greater than the individual license capacity being transferred, a logical or physical partition or other means of restricting access will be maintained within the computer system so as to restrict use and access to the Product to that unit of licensed capacity solely dedicated to beneficial use for Licensee. In the event that the maximum capacity of the consolidated machine is greater than the combined individual license capacity of all licenses running at the consolidated or transferred Site, and a logical or physical partition or other means of restricting use is not available, the fees due Contractor shall not exceed the fees otherwise payable for a single license for the upgrade capacity.

**f. Restricted Use By Outsourcers, Facilities Management, Service Bureaus, or Other Third Parties** Outsourcers, facilities management or service bureaus retained by Licensee shall have the right to use the Product to maintain Licensee's business operations, including data processing, for the time period that they are engaged in such activities, provided that: (i) Licensee gives notice to Contractor of such party, site of intended use of the Product, and means of access; and (ii) such party has executed, or agrees to execute, the Product manufacturer's standard nondisclosure or restricted use agreement which executed agreement shall be accepted by the Contractor ("Non-Disclosure Agreement"); and (iii) if such party is engaged in the business of facility management, outsourcing, service bureau or other services, such third party will maintain a logical or physical partition within its computer system so as to restrict use and access to the program to that portion solely dedicated to beneficial use for Licensee. In no event shall Licensee assume any liability for third party's compliance with the terms of the Non-Disclosure Agreement, nor shall the Non-Disclosure Agreement create or impose any liabilities on the State or Licensee.

Any third party with whom a Licensee has a relationship for a State function or business operation, shall have the temporary right to use Product (e.g., JAVA Applets), provided that such use shall be limited to the time period during which the third party is using the Product for the function or business activity.

**g. Archival Back-Up and Disaster Recovery** Licensee may use and copy the Product and related Documentation in connection with: (i) reproducing a reasonable number of copies of the Product for archival backup and disaster recovery procedures in the event of destruction or

corruption of the Product or disasters or emergencies that require Licensee to restore backups or to initiate disaster recovery procedures for its platform or operating systems; (ii) reproducing a reasonable number of copies of the Product and related Documentation for cold site storage. The phrase "cold site" storage shall be defined as a restorable back-up copy of the Product not to be installed until and after the declaration by the Licensee of a disaster; (iii) reproducing a back-up copy of the Product to run for a reasonable period of time in conjunction with a documented consolidation or transfer otherwise allowed herein. "Disaster Recovery" shall be defined as the installation and storage of Product in ready-to-execute, back-up computer systems prior to disaster or breakdown which is not used for active production or development.

**h. Confidentiality Restrictions** The Product is a trade secret, copyrighted and proprietary product. Licensee and its employees will keep the Product strictly confidential, and Licensee will not disclose or otherwise distribute or reproduce any Product to anyone other than as authorized under the terms of Contract. Licensee will not remove or destroy any proprietary markings of Contractor.

**i. Restricted Use by Licensee** Except as expressly authorized by the Terms of License, Licensee shall not: (i) copy the Product; (ii) cause or permit reverse compilation or reverse assembly of all or any portion of the Product; or (iii) export the Licensed Software in violation of any U.S. Department of Commerce export administration regulations.

**70. PRODUCT ACCEPTANCE** Unless otherwise provided by mutual agreement of the Agency and the Contractor, the Agency shall have thirty (30) days from the date of delivery to accept hardware Products and sixty (60) days from the date of delivery to accept all other Product. Where the Contractor is responsible for installation, acceptance shall be from completion of installation. Title or other property interest and risk of loss shall not pass from Contractor to the Agency until the Products have been accepted. Failure to provide notice of acceptance or rejection or a deficiency statement to the Contractor by the end of the period provided for under this clause constitutes acceptance by the Agency as of the expiration of that period. The license term shall be extended by the time periods allowed for trial use, testing and acceptance unless the Agency agrees to accept the Product at completion of trial use.

Unless otherwise provided by mutual agreement of the Agency and the Contractor, the Agency shall have the option to run testing on the Product prior to acceptance, such tests and data sets to be specified by the Agency. Where using its own data or tests, the Agency must have the tests or representative set of data available upon delivery. This demonstration will take the form of a documented installation test, capable of observation by the Agency, and shall be made part of the Contractor's standard documentation. The test data shall remain accessible to the Agency after completion of the test.

In the event that the documented installation test cannot be completed successfully within the specified acceptance period, and the Contractor or Product is responsible for the delay, the Agency shall have the option to cancel the order in whole or in part, or to extend the testing period for an additional thirty (30) day increment. The Agency shall notify Contractor of acceptance upon successful completion of the documented installation test. Such cancellation shall not give rise to any cause of action against the Agency for damages, loss of profits, expenses, or other remuneration of any kind.

If the Agency elects to provide a deficiency statement specifying how the Product fails to meet the specifications within the testing period, Contractor shall have thirty (30) days to correct the deficiency, and the Agency shall have an additional sixty (60) days to evaluate the Product as provided herein. If the Product does not meet the specifications at

the end of the extended testing period, the Agency, upon prior written notice to Contractor, may then reject the Product and return all defective Product to Contractor, and Contractor shall refund any monies paid by the Agency to Contractor therefor. Costs and liabilities associated with a failure of the Product to perform in accordance with the functionality tests or product specifications during the acceptance period shall be borne fully by Contractor to the extent that said costs or liabilities shall not have been caused by negligent or willful acts or omissions of the Agency's agents or employees. Said costs shall be limited to the amounts set forth in the Limitation of Liability clause for any liability for costs incurred at the direction or recommendation of Contractor. When Product is not accepted, it must be removed by the Contractor from the premises of the Agency within ten calendar days of notification of non-acceptance by the Agency. Rejected items not removed by the Contractor within the ten calendar day period shall be regarded as abandoned by the Contractor and the Agency shall have the right to dispose of Product as its own property. The Contractor shall promptly reimburse the Agency for any costs incurred in storage or effecting removal or disposition after the ten calendar day period.

**71. AUDIT OF LICENSED PRODUCT USAGE** Contractor shall have the right to periodically audit, no more than annually, at Contractor's expense, use of licensed Product at any Site where a copy of the Product resides provided that: (i) Contractor gives Licensee at least thirty (30) days advance written notice, (ii) such audit is conducted during such party's normal business hours, (iii) the audit is conducted by an independent auditor chosen on mutual agreement of the parties. Contractor shall recommend a minimum of three (3) auditing/accounting firms from which the Licensee will select one (1). In no case shall the Business Software Alliance (BSA), Software Publishers Association (SPA), Software and Industry Information Association (SIIA) or Federation Against Software Theft (FAST) be used directly or indirectly to conduct audits, or be recommended by Contractor; (iv) Contractor and Licensee are each entitled to designate a representative who shall be entitled to participate, and who shall mutually agree on audit format, and simultaneously review all information obtained by the audit. Such representatives also shall be entitled to copies of all reports, data or information obtained from the audit; and (v) if the audit shows that such party is not in compliance, Licensee shall be required to purchase additional licenses or capacities necessary to bring it into compliance and shall pay for the unlicensed capacity at the net pricing in effect under the Contract at time of audit, or if none, then at the Contractor's U.S. commercial list price. Once such additional licenses or capacities are purchased, Licensee shall be deemed to have been in compliance retroactively, and Licensee shall have no further liability of any kind for the unauthorized use of the software.

## **72. OWNERSHIP/TITLE TO PROJECT DELIVERABLES**

### **a. Definitions**

(i) For purposes of this clause, "Products." Deliverables furnished under this Contract by or through Contractor, including existing and custom Products, including, but not limited to: a) components of the hardware environment, b) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings), whether printed in hard copy or maintained on diskette, CD, DVD or other electronic media c) third party software, d) modifications, customizations, custom programs, program listings, programming tools, data, modules, components, and e) any properties embodied therein, whether in tangible or intangible form (including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, Source Code, object code).

(ii) For purposes of this clause, "Existing Products." Tangible Products and intangible licensed Products that exist prior to the commencement of work under the Contract. Contractor bears the burden of proving that a particular product was in existence prior to the commencement of the Project.

(iii) For purposes of this clause, "Custom Products." Products, preliminary, final or otherwise, which are created or developed by Contractor, its Subcontractors, partners, employees or agents for the Agency under the Contract.

**b. Title to Project Deliverables** Contractor acknowledges that it is commissioned by the Agency to perform the services detailed in the Purchase Order. Unless otherwise specified in writing in the Solicitation or Purchase Order, the Agency shall have ownership and license rights as follows:

#### **(i) Existing Products:**

**1. Hardware** - Title and ownership of Existing Hardware Product shall pass to the Agency upon acceptance.

**2. Software** - Title and ownership to Existing Software Products delivered by Contractor under the Contract that is normally commercially distributed on a license basis by the Contractor or other independent software vendor proprietary owner ("Existing Licensed Product"), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with Contractor or the proprietary owner of other independent software vendor(s) (ISV). Effective upon acceptance, such Product shall be licensed to the Agency in accordance with the Contractor or ISV owner's standard license agreement, provided, however, that such standard license, must, at a minimum: (a) grant the Agency a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless Contractor advises the Agency as part of Contractor's proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the Agency's satisfaction) and distribute Existing Licensed Product to the Agency up to the license capacity stated in the Purchase Order or work order with all license rights necessary to fully effect the general business purposes stated in the Solicitation or the Agency's Purchase Order or work order, including the financing assignment rights set forth in paragraph (c) below; and (b) recognize the State of New York as the Licensee where the Agency is a State Agency. Where these rights are not otherwise covered by the ISV's owner's standard license agreement, the Contractor shall be responsible for obtaining these rights at its sole cost and expense. The Agency shall reproduce all copyright notices and any other legend of ownership on any copies authorized under this clause.

(ii) **Custom Products:** Effective upon creation of Custom Products, Contractor hereby conveys, assigns and transfers to the Agency the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all trademark and copyrights. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor, its agents, employees, or Subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a Purchase Order, project definition or work order in the course of Contractor's business. The Agency may, by providing written notice thereof to the Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of the Agency taking exclusive ownership and title to such Products. In such case, Licensee on behalf of all the Agency shall

be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt and distribute Custom Product as necessary to fully effect the general business purpose(s) as stated in paragraph (b)(i)(2), above.

**c. Transfers or Assignments to a Third Party Financing Agent** It is understood and agreed by the parties that a condition precedent to the consummation of the purchases under the Contract may be the obtaining of acceptable third party financing by the Agency. The Agency shall make the sole determination of the acceptability of any financing proposal. The Agency will make all reasonable efforts to obtain such financing, but makes no representation that such financing has been obtained as of the date of Bid receipt. Where financing is used, the Agency may assign or transfer its rights in Licensed Products (existing or custom) to a third party financing entity or trustee (“Trustee”) as collateral where required by the terms of the financing agreement. Trustee’s sole rights with respect to transferability or use of Licensed Products shall be to exclusively sublicense to the Agency all of its Licensee’s rights under the terms and conditions of the License Agreement; provided, further, however, in the event of any termination or expiration of such sublicense by reason of payment in full, all of Trustee’s rights in such Licensed Product shall terminate immediately and the Agency’s prior rights to such Existing Licensed Product shall be revived.

**d. Sale or License of Custom Products Involving Tax-Exempt Financing (i.e., Certificates of Participation - COPS)** The Agency’s sale or other transfer of Custom Products which were acquired by the Agency using third party, tax-exempt financing may not occur until such Custom Products are, or become, useable. In the event that the Contractor wishes to obtain ownership rights to Custom Product(s), the sale or other transfer shall be at fair market value determined at the time of such sale or other transfer, and must be pursuant to a separate written agreement in a form acceptable to the Agency which complies with the terms of this clause.

**e. Contractor’s Obligation with Regard to ISV (Third Party) Product** Where Contractor furnishes Existing Licensed Product(s) as a project deliverable, and sufficient rights necessary to effect the purposes of this section are not otherwise provided in the Contractor or ISV’s standard license agreement, Contractor shall be responsible for obtaining from the ISV third party proprietary owner/developer the rights set forth herein to the benefit of the Agency at Contractor’s sole cost and expense.

**73. PROOF OF LICENSE** The Contractor must provide to each Licensee who places a Purchase Order either: (i) the Product developer’s certified License Confirmation Certificates in the name of such Licensee; or (ii) a written confirmation from the proprietary owner accepting Product invoice as proof of license. Contractor shall submit a sample certificate, or alternatively such written confirmation from the proprietary developer. Such certificates must be in a form acceptable to the Licensee.

**74. PRODUCT VERSION** Purchase Orders shall be deemed to reference Manufacturer’s most recently released model or version of the Product at time of order, unless an earlier model or version is specifically requested in writing by the Agency and Contractor is willing to provide such version.

**75. CHANGES TO PRODUCT OR SERVICE OFFERINGS**

**a. Product or Service Discontinuance** Where Contractor is the Product Manufacturer/Developer, and Contractor publicly announces to all U.S. customers (“date of notice”) that a Product is being withdrawn from the U.S. market or that maintenance service or technical support provided by Contractor (“withdrawn support”) is no longer going to be

offered, Contractor shall be required to: (i) notify the Agency and each Licensee then under contract for maintenance or technical support in writing of the intended discontinuance; and (ii) continue to offer Product or withdrawn support upon the Contract terms previously offered for the greater of: (a) the best terms offered by Contractor to any other customer, or (b) not less than twelve (12) months from the date of notice; and (iii) at the Agency’s option, provided that the Agency is under contract for maintenance on the date of notice, either: provide the Agency with a Product replacement or migration path with at least equivalent functionality at no additional charge to enable the Agency to continue use and maintenance of the Product.

In the event that the Contractor is not the Product Manufacturer, Contractor shall be required to: (i) provide the notice required under the paragraph above, to the entities described within five (5) business days of Contractor receiving notice from the Product Manufacturer, and (ii) include in such notice the period of time from the date of notice that the Product Manufacturer will continue to provide Product or withdraw support.

The provisions of this subdivision (a) shall not apply or eliminate Contractor’s obligations where withdrawn support is being provided by an independent Subcontractor. In the event that such Subcontractor ceases to provide service, Contractor shall be responsible for subcontracting such service, subject to State approval, to an alternate Subcontractor.

**b. Product or Service Re-Bundling** In the event that Contractor is the Product manufacturer and publicly announces to all U.S. customers (“date of notice”) that a Product or maintenance or technical support offering is being re-bundled in a different manner from the structure or licensing model of the prior U.S. commercial offering, Contractor shall be required to: (i) notify the State and the Agency in writing of the intended change; (ii) continue to provide Product or withdrawn support upon the same terms and conditions as previously offered on the then-current NYS Contract for the greater of: (a) the best terms offered by Contractor to any other customer, or (b) not less than twelve (12) months from the date of notice; and (iii) shall submit the proposed re-bundling change to the Agency for approval prior to its becoming effective for the remainder of the Contract term. The provisions of this section do not apply if the Contractor is not the Product manufacturer.

**76. NO HARDSTOP/PASSIVE LICENSE MONITORING** Unless the Agency is otherwise specifically advised to the contrary in writing at the time of order and prior to purchase, Contractor hereby warrants and represents that the Product and all upgrades do not and will not contain any computer code that would disable the Product or upgrades or impair in any way its operation based on the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral, or other similar self-destruct mechanisms (sometimes referred to as “time bombs,” “time locks,” or “drop dead” devices) or that would permit Contractor to access the Product to cause such disablement or impairment (sometimes referred to as a “trap door” device). Contractor agrees that in the event of a breach or alleged breach of this provision that the Agency shall not have an adequate remedy at law, including monetary damages, and that the Agency shall consequently be entitled to seek a temporary restraining order, injunction, or other form of equitable relief against the continuance of such breach, in addition to any and all remedies to which the Agency shall be entitled.

**77. SOURCE CODE ESCROW FOR LICENSED PRODUCT** If Source Code or Source Code escrow is offered by either Contractor or Product manufacturer or developer to any other commercial customers, Contractor shall: (i) provide Licensee with the Source Code for the

Product; or (ii) place the Source Code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the State, and who shall be directed to release the deposited Source Code in accordance with a standard escrow agreement acceptable to the State; or (iii) certify to the State that the Product manufacturer/developer has named the State, acting by and through the Agency, and the Licensee, as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the State and Licensee, and who shall be directed to release the deposited Source Code in accordance with the terms of escrow. Source Code, as well as any corrections or enhancements to such Source Code, shall be updated for each new release of the Product in the same manner as provided above and such updating of escrow shall be certified to the State in writing. Contractor shall identify the escrow agent upon commencement of the Contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this clause.

The State may release the Source Code to Licensees under this Contract who have licensed Product or obtained services, who may use such copy of the Source Code to maintain the Product.

**INDEX**

<u>Clause</u>	<u>No.</u>	<u>Clause</u>	<u>No.</u>
<u>A</u>			
Advertising Results	15	Performance/Bid Bond	49
Agency's Dispute Resolution Procedures	68	Prevailing Wage Rates - Public Works and Building Services Contracts	12
Applicability	1	Pricing	19
Appendix A	3	Product Acceptance	70
Assignment	47	Product Delivery	36
Assignment of Claim	57	Product References	16
Audit of Licensed Product Usage	71	Product Substitution	41
<u>B</u>			
Bid Contents	9	Product Version	74
Bid Evaluation	24	Products Manufactured in Public Institutions	18
Bid Opening	7	Prompt Payments	55
<u>C</u>			
Changes to Product or Service Offerings	75	Proof of License	73
Clarification / Revisions	27	Purchase Orders	35
Confidential/Trade Secret Materials	11	Purchasing Card	22
Contract Creation/Execution	29	<u>Q</u>	
Contract Invoicing	53	Quantity Changes Prior to Award	26
Contract Term - Renewal	62	<u>R</u>	
Cooperation with Third Parties	61	Rejected Product	42
<u>D</u>			
Default - By Agency	54	Remanufactured, Recycled, Recyclable or Recovered Materials	17
Definitions	5	Remedies for Breach	56
Drawings	20	Repaired or Replaced Products, Parts, or Components	44
<u>E</u>			
Emergency Contracts	34	Re-Weighing Product	40
Employees, Subcontractors and Agents	46	<u>S</u>	
Estimated/Specific Quantity Contracts	33	Samples	23
Ethics Compliance	4	Savings/Force Majeure	52
Expenses Prior to Contract Execution	14	Scope Changes	32
Extraneous Terms	10	Security	60
<u>G</u>			
Governing Law	2	Shipping/Receipt of Product	38
<u>I</u>			
Indemnification	65	Site Inspection	21
Indemnification Relating to Infringement	66	Software License Grant	69
Independent Contractor	59	Source Code Escrow for Licensed Product	77
Installation	43	Subcontractors and Suppliers	48
International Bidding	6	Suspension of Work	50
<u>L</u>			
Late Bids Rejected	8	<u>T</u>	
Legal Compliance	64	Taxes	13
Limitation of Liability	67	Termination	51
<u>M</u>			
Modification of Contract Terms	31	Tie Bids	25
<u>N</u>			
No Hardstop/Passive License Monitoring	76	Timeframe for Offers	28
<u>O</u>			
Official Use Only/No Personal Use	30	Title and Risk of Loss	39
On-Site Storage	45	Toxic Substances	58
Ownership/Title to Project Deliverables	72	<u>W</u>	
		Warranties	63
		Weekend and Holiday Deliveries	37

## Appendix C - Participation by Minority Group Members and Women with Respect to State Contracts

### I. General Provisions

- A. The New York State Office of Parks, Recreation and Historic Preservation is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
  -
- B. The contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Office of Parks, Recreation and Historic Preservation, to fully comply and cooperate with the New York State Office of Parks, Recreation and Historic Preservation in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). The Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws.
  -
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Contract.

### II. Contract Goals

- A. For purposes of this procurement, the New York State Office of Parks, Recreation and Historic Preservation hereby establishes New York State certified minority-owned business enterprises (“MBE”) participation and New York State certified women-owned business enterprises (“WBE”) participation (collectively, “MWBE Contract Goals”) based on the current availability of qualified MBEs and WBEs as defined in the bidders documentation provided at the time of solicitation. After contract approval, MWBE Contract Goals as defined on the approved utilization plan will be endorsed to determine compliance for the contract term.
  -
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section II-A hereof, the Contractor should reference the directory of New York State Certified MBWEs found at the following internet address:  
<https://ny.newnycontracts.com>.

Additionally, the Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

- C. Where MWBE Contract Goals have been established herein, pursuant to 5 NYCRR § 142.8, the Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR § 142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the New York State Office of Parks, Recreation and Historic Preservation for liquidated or other appropriate damages, as set forth herein.

- 
- 

### III. Equal Employment Opportunity (EEO)

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.
- 
- B. In performing the Contract, the Contractor shall:
  - 1. Ensure that each contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
  - 2. The Contractor shall submit an EEO policy statement to the New York State Office of Parks, Recreation and Historic Preservation within seventy-two (72) hours after the date of the notice by the New York State office of Parks, Recreation and Historic Preservation to award the Contract to the Contractor.
  - 3. If the Contractor, or any of its subcontractors, does not have an existing EEO policy statement, the New York State Office of Parks, Recreation and Historic Preservation may require the Contractor or subcontractor to adopt a model statement (see Form – Equal Employment Opportunity Policy Statement).
  - 4. The Contractor’s EEO policy statement shall include the following language:
    - 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 EEO programs 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.
    - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the 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. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
    - d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph “E” of this Section III, which provides for relevant provisions of the Human Rights



Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

#### C. Staffing Plan

To ensure compliance with this Section, for those contracts reaching \$250,000 or greater, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The Contractor shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

#### D. Workforce Utilization Report

1. The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by the New York State Office of Parks, Recreation and Historic Preservation on a [MONTHLY/QUARTERLY] basis during the term of the Contract.
2. Separate forms shall be completed by the Contractor and any subcontractors.
3. Pursuant to Executive Order #162, contractors and subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.

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

#### IV. MWBE Utilization Plan

- A. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan, by submitting evidence thereof through the New York State Contract System ("NYSCS"), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that the Contractor may arrange to provide such evidence via a non-electronic method to the New York State Office of Parks, Recreation and Historic Preservation, either prior to, or at the time of, the execution of the contract.
- B. The Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.
- C. The Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, New York State Office of Parks, Recreation and Historic Preservation shall be entitled to any remedy provided herein, including but not limited to, a finding of the Contractor non-responsiveness.

#### V. Waivers

- A. For Waiver Requests, the Contractor should use the NYSCS, provided, however, that Bidder may arrange to provide such evidence via a non-electronic method to New York State Office of Parks, Recreation and Historic Preservation.
- B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver documenting good faith efforts by the Contractor to meet such goals.

If the documentation included with the waiver request is complete, the New York State Office of Parks, Recreation and Historic Preservation shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

- C. If the New York State Office of Parks, Recreation and Historic Preservation, upon review of the MWBE Utilization Plan and updated MWBE Contractor Compliance Reports determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals and no waiver has been issued in regards to such non-compliance, the New York State Office of Parks, Recreation and Historic Preservation may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

#### VI. MWBE Contractor Compliance Report

The Contractor is required to submit MWBE Contractor Compliance Reports through the NYSCS, provided, however, that Bidder may arrange to provide such evidence via a non-electronic method to the New York State Office of Parks, Recreation and Historic Preservation. Reports will be generated by the NYSCS for completion upon the generation of a payment to the Contractor. Reports should be completed for the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

#### VII. VII. Liquidated Damages - MWBE Participation

- A. Where New York State Office of Parks, Recreation and Historic Preservation determines that the Contractor is not in compliance with the requirements of the Contract and the Contractor refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to the New York State Office of Parks, Recreation and Historic Preservation liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
  2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the New York State Office of Parks, Recreation and Historic Preservation, the Contractor shall pay such liquidated damages to the New York State Office of Parks, Recreation and Historic Preservation within sixty (60) days after they are assessed by the New York State Office of Parks, Recreation and Historic Preservation unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the New York State Office of Parks, Recreation and Historic Preservation.

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

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. The New York State Office of Parks, Recreation and Historic Preservation recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of the New York State Office of Parks, Recreation and Historic Preservation contracts.

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

For purposes of this procurement, the New York State Office of Parks, Recreation and Historic Preservation encourages the use of good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>

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

## Appendix D - Bid Protest Procedures

It is the policy of the Office of Parks, Recreation and Historic Preservation (OPRHP) to provide bidders with an opportunity to administratively resolve disputes or inquiries related to OPRHP contract awards. Bidders are encouraged to seek resolution of disputes through consultation with the Designated Contact(s). After being notified of the results of this contract opportunity, any entity or individual that participated in the procurement may submit a protest of the resulting contract award.

OPRHP reserves the right to suspend, modify, or cancel this procurement at any time during the procurement process. OPRHP also reserves the right to waive or extend the deadlines in this procedure.

### **Submission of Formal Written Protests**

Protests must be received by the Designated Contact no later than five (5) business days after a debriefing or ten (10) business days after the written notice of selection or non-selection for contract award, whichever is later.

Protests must be submitted in writing, clearly marked as a protest on the envelope or in the email subject line, and include the following information:

1. Solicitation or contract number
2. Name, address, email address and telephone number of the filer
3. Detailed statement of the legal and factual grounds for the protest
4. Statement of the relief requested
5. Copies of relevant documents

### **Agency Response**

Within 30 business days of receipt of a protest, OPRHP's protest officer (the Director of Audit or her designee) will respond with a protest determination stating the agency's decision on the protest and the reasoning on which it is based. In making a determination, the protest officer will consider the legal and factual grounds stated in the protest, consult with the Designated Contact and appropriate program staff, and review all relevant documents.

### **Finality; Appeal**

For contract opportunities subject to the approval of the Office of the State Comptroller, the protesting party may appeal OPRHP's protest determination to the Office of the State Comptroller in accordance with the regulations contained in Part 24 of Title 2 of the New York Codes, Rules and Regulations.

For contract opportunities that are not subject to the approval of the Office of the State Comptroller, OPRHP's protest determination is the conclusive and final determination of the protest.

Nothing in these bid protest procedures is intended to limit or impair the rights of any bidder to seek and pursue remedies of law through the judicial process.

## Appendix F – Insurance Requirements

Prior to the start of this Agreement, the Contractor shall procure, at its sole cost and expense, all insurance coverage required by this Appendix. During the term of this Agreement, the Contractor shall maintain in force any and all policies of insurance required by this Appendix.

All policies of insurance required by this Appendix shall be written by companies licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York (“Authorized Carriers”) with an A.M. Best Company rating of “A-” Class “VII” or better. If during the term of the policy, a carrier’s rating falls below “A-” Class “VII”, the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to the Office of Parks, Recreation and Historic Preservation (OPRHP) and rated at least “A-” Class “VII” in the most recently published Best’s Insurance Report.

The Contractor shall deliver to OPRHP evidence of such policies in a form acceptable to OPRHP. These policies must be written in accordance with the requirements of the paragraphs below, as applicable. Acceptance and/or approval by OPRHP does not and shall not be construed to relieve Contractor of any obligations, responsibilities, or liabilities under any contract resulting from this solicitation.

All policies of insurance required by any contract resulting from this solicitation must meet the following requirements:

- All required policies of insurance shall be endorsed to name the “State of New York, Office of Parks, Recreation, and Historic Preservation, and their officers, employees, and agents” as an additional insured.
- Forms shall be filled out with the date of issuance, names of the insured, carrier, policy numbers, coverage period, any deductible or self-insured retention amounts, each occurrence and aggregate limits, and exclusions or additional insured endorsements to the policy.
- Forms shall be signed by an authorized representative of the reference insurance carriers.
- Only original forms or electronic versions of the same that can be directly traced back to the insurer, agent, or broker via email distribution or similar means will be accepted.
- Forms shall refer to the contract number resulting from the solicitation.
- Upon renewal of insurance coverage, the Contractor shall submit to OPRHP current proof of insurance.
- All required policies shall provide that the required coverage shall be primary and non-contributory to other insurance available to the State.
- If the policy is written on a claims-made basis, Contractor must submit to OPRHP an Endorsement providing proof that the policy provides the option to purchase an Extended Reporting Period (“tail coverage”) providing coverage for no less than one (1) year after work is completed in the event that coverage is cancelled or not renewed. This requirement applies to both primary and excess liability policies, as applicable.
- All required policies shall be written such that OPRHP is afforded at least thirty (30) calendar days’ prior notice of cancellation, modification or renewal of coverage.
- The Contractor shall notify OPRHP of any claims arising from the activities or operations under this Agreement as soon as practicable, but in no event more than five (5) business days from the Contractor’s receipt of notice of the accident or claim.

### **Subcontractors**

Contractor shall require any of its subcontractors retained in relation to this Agreement to meet the requirements of this Section, including but not limited to naming the “State of New York, Office of Parks, Recreation, and Historic Preservation, and their officers, employees, and agents” as additional insureds on all required policies of insurance. Prior to the commencement of any work, an Additional Insured Endorsement CG 20 38 04 13 (or the equivalent) evidencing such coverage shall be provided to the Contractor by their subcontractor and shall be provided to OPRHP upon request.

Insurance	Coverage	Types	and	Minimum	Policy	Limits
-----------	----------	-------	-----	---------	--------	--------

Contractor shall procure the types of insurance coverage and minimum liability limits set forth below. Contractor may meet the required insurance coverage limits through a combination of primary and excess/umbrella liability policies. If coverage limits are provided through excess/umbrella liability policies, then a Schedule of underlying insurance listing policy information for all underlying insurance policies (insurer, policy number, policy term, coverage and limits of insurance), including proof that the excess/umbrella insurance follows form must be provided after renewal and/or upon request.

- A. **Commercial General Liability** Said policy shall cover the liability of the Contractor for bodily injury, property damage, premises liability and personal/advertising injury from all work and operations under any contract resulting from this solicitation. The limits under such policy shall not be less than the following:

- Each Occurrence limit \$2,000,000.00
- General Aggregate \$2,000,000.00
- Products/Completed Operations \$2,000,000.00
- Personal Advertising Injury \$1,000,000.00
- Damage to Rented Premises \$50,000.00
- Medical Expense \$5,000.00

The following ISO forms must be endorsed to the policy:

- a. CG 00 01 01 96 or an equivalent – Commercial General Liability Coverage Form
- b. CG 20 10 11 85 or an equivalent – Additional Insured – Owner, Lessees or Contractors (Form B)
- c. Waiver of Subrogation

- B. **Comprehensive Business Automobile Liability Insurance** Such policy shall have a combined single limit for Bodily Injury and Property Damage of at least \$2,000,000 each accident. Said policy shall cover liability arising out of any automobile used in connection with performance under this Agreement including owned, leased, hired, and non-owned automobiles bearing or, under the circumstances under which they are being used, required by the Motor Vehicles Law of the State of New York to bear license plates.

If the Contractor does not own, lease, or hire any automobiles used in connection with performance under this Agreement, the Contractor is not required to obtain Comprehensive Business Automobile Liability Insurance.

- C. **Fire Insurance**. Said policy shall have a liability limit of at least \$500,000; if such insurance contains an aggregate limit, it shall apply separately on a per-location basis.

### **Workers' Compensation and Disability Benefits Insurance**

Prior to the start of this Agreement, the Contractor shall provide OPRHP with proof of Workers' Compensation Insurance and Disability Benefits Insurance. The following are the only acceptable means of proof; ACORD forms are NOT acceptable proof of coverage.

Acceptable Proof of Workers' Compensation	
CE-200	Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage
C-105.2	Certificate of Workers' Compensation Insurance
U-26.3	NYS Insurance Fund Certificate
GSI-105.2	Certificate of Participation in Workers' Compensation Group Board - approved self-insurance

---

SI-12	Certificate of Workers' Compensation Self-Insurance
-------	---

**Acceptable Proof of Disability Benefits**

CE-200	Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage
DB-120.1	Certificate of Disability Benefits Insurance

For more information about Workers' Compensation and Disability insurance, log onto the Workers Compensation Board website at [www.wcb.state.ny.us](http://www.wcb.state.ny.us) or call them toll-free at 1-866-546-9322.

# Attachment 1 - Bid Form

Method of Award is based on the lowest Grand Total Cost to OPRHP from a responsive and responsible vendor.

The figures shown below represent OPRHP's best estimate, included for bidding purposes. OPRHP guarantees no minimum or maximum amount of work. Payment to awarded contractor will reflect only work completed. All ancillary costs **must** be included in rates bid. To submit a bid, please enter your price(s) below, being mindful of any required mathematical extensions (i.e. multiplied by quantities/frequency, etc.). **All figures must be rounded to two decimal places.**

By completing this bid and by signing the "Non-Collusive Bidding Certification" that follows, the bidder acknowledges a full understanding of OPRHP's requirements and, if awarded the contract, agrees to provide the requested service at the bid price offered.

**Bidder's Not to Exceed Project Cost →**

--

Certification			
Company Name:			
Doing Business As:			
Federal ID No.:		SFS ID No.:	
Address:			City
			State
			Zip Code
Name of Official:		Title:	
E-Mail		Telephone:	
_____		_____	
Signature		Date	



## Attachment 2 – Lobbying Law Certification

Pursuant to State Finance Law §§139-j and 139-k, this solicitation [or use identifier that is pertinent such as “Invitation for Bid” or “Request for Proposal”, etc.] includes and imposes certain restrictions on communications between a Governmental Entity and an Offerer/bidder during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest posting, on a Governmental Entity’s website, in a newspaper of general circulation, or in the procurement opportunities newsletter in accordance with article four-C of the economic development law of written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method provided for by law or regulation for soliciting a response from Offerers intending to result in a Procurement Contract with a Governmental Entity through final award and approval of the Procurement Contract by the Governmental Entity and, if applicable, the Office of the State Comptroller (“Restricted Period”) [conform for pertinent government entity] to other than the Designated Contacts for the Governmental Procurement unless it is a Contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). The Designated Contact(s) for this Governmental Procurement, as of the date hereof, are identified on the first page of this solicitation [or conform to whatever location is used to identify Designated Contacts]. Governmental Entity employees [conform for pertinent government entity] are also required to obtain certain information when Contacted during the Restricted Period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4-year period, the Offerer/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found [conform for how will provide copies of the rules, regulations, guidelines or procedures].

### **Offerer Disclosure of Prior Non-Responsibility Determinations**

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms “Offerer” and “Governmental Entity” are defined in State Finance Law § 139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such Contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

### **Instructions**

The Governmental Entity reserves the right to terminate this contract in the event it is found that the certification filed by the Offerer in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Governmental Entity may exercise its termination right by providing written notification to the Offerer in accordance with the written notification terms of this contract.

The Office of State Parks, Recreation and Historic Preservation (OPRHP) includes this disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to OPRHP unit conducting the Governmental Procurement.

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please mark):

No  Yes

If yes, please answer the next questions:

- 2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please mark):  
 No  Yes
- 3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please mark):  
 No  Yes
- 4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: \_\_\_\_\_  
 Date of Finding of Non-responsibility: \_\_\_\_\_  
 Basis of Finding of Non-Responsibility: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(attach additional pages as necessary)

- 5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please mark):  
 No  Yes
- 6. If yes, please provide details below.

Governmental Entity: \_\_\_\_\_  
 Date of Finding of Non-responsibility: \_\_\_\_\_  
 Basis of Finding of Non-Responsibility: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(attach additional pages as necessary)

<b>Lobbying Affirmation and Certification</b>	
Offerer affirms that it understands and agrees to comply with the procedures of the OPRHP relative to permissible Contacts as required by State Finance Law §139-j(3) and §139-j(6)(b). Offerer certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k, §139-j(3) and §139-j(6)(b), §139-k(5) is complete, true and accurate.	
Company Name: _____	
Doing Business As: _____	
Address: _____	City _____
	State _____
	Zip Code _____
Name of Official: _____	Title _____
E-Mail _____	Telephone: _____
_____	_____
Signature	Date

## Attachment 3 - Non-Collusive Bidding Certification

The undersigned hereby certifies his or her compliance with the following:

By submission of this bid, each bidder and each person signing on behalf of any other 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 his or her knowledge and belief:

- A. The prices of this bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
  - B. Unless otherwise required by law, the prices which have been quoted in this bid have not have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
  - C. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.
1. Within the previous four years, has the bidder been found non-responsible by a government entity?  
(Please mark):  
 No  Yes
  2. If "yes," was the determination of non-responsibility due to (1) engaging in impermissible contacts with a government entity, or (2) the intentional provision of false or incomplete information to a government entity? (Please mark)  
 No  Yes - If yes, please explain on a separate sheet.

<b>Certification</b>	
The undersigned has carefully examined the bidding and contract documents and agrees to perform this contract and to provide all goods and / or services, labor, material and equipment necessary for this contract. In addition, the bidder certifies that all information submitted regarding the Procurement Lobbying Law * is complete, true and accurate. If such information is found to be intentionally false or intentionally incomplete, OPRHP reserves the right to terminate the resulting contract.	
Company Name:	
Doing Business As:	
Address:	City
	State
	Zip Code
Name of Official:	Title
E-Mail	Telephone:
_____	_____
Signature	Date

\* Relevant to transactions with an annualized value in excess of \$15,000.

## Attachment 4 - Public Officers Law

THE FOLLOWING PROHIBITIONS PERTAIN TO THE SALE OF GOODS AND SERVICES BY STATE EMPLOYEES TO NEW YORK STATE AGENCIES PURSUANT TO THE NYS PUBLIC OFFICERS LAW

(Please complete this form and return it with your bid.)

**Current State Employees** - Current employees of New York State cannot sell goods or services valued at \$25 or more to any state agency, either as a private contractor or through a company in which that employee holds Director'ship of at least 10%, unless the procurement opportunity is first advertised in the NYS Contract Reporter and competitively bid.

**Former State Employees** - Former employees of the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) cannot sell goods or services to OPRHP under any circumstance for two (2) years following the date they leave OPRHP's employ. (This applies only to OPRHP and OPRHP's employees, and does not preclude a former employee of another state agency from selling goods or services to OPRHP within two years following the last date of that person's state employment.)

**Please check ( X ) as appropriate, sign and date.**

- I am currently a state employee, and/or own at least 10% of the company that is being asked to provide goods or services to OPRHP.
- I am a former OPRHP employee, and my service with them ended less than two years prior to the date of my signature below.
- Neither of the above apply.

Certification	
Company Name:	
Doing Business As:	
Name of Official:	Title
E-Mail	Telephone:
<p>_____</p> <p style="text-align: center;">Signature <span style="float: right;">Date</span></p>	

October 1, 2003



# Attachment 6 - NYS Finance Law §139-I and Executive Order No. 177 Certification

## State Finance Law § 139-I Certification

By submission of 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 the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.

## Executive Order No. 177 Certification

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

<b>Certification</b>	
By signing, you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of the above certifications and that all information provided is complete, true and accurate.	
Company Name:	
Doing Business As:	
Name of Official:	Title
E-Mail	Telephone:
<hr/> Signature <span style="float: right;">Date</span>	

# Attachment 7 – Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Policy Statement

## M/WBE and EEO Policy Statement

I, \_\_\_\_\_, the (awardee/contractor) \_\_\_\_\_ agree to adopt the following policies with respect to the project being developed or services rendered at \_\_\_\_\_

**M/WBE** This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.

Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.

Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.

Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.

Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.

Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

**EEO** (a) This organization 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 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) This organization shall state in all solicitation 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 disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized 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 this organization's obligations herein.

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

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract

Agreed to this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_ By \_\_\_\_\_  
Print: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_ is designated as the Minority Business Enterprise Liaison  
(Name of Designated Liaison), responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.

## M/WBE Contract Goals

- 10 % Minority and Women's Business Enterprise Participation
- 5 % Minority Business Enterprise Participation
- 5 % Women's Business Enterprise Participation

## Attachment 8 – Vendor Responsibility Attestation

If this or any other contract you have with the State of New York is valued at \$100,000.00 or more, Office of Parks, Recreation and Historic Preservation (OPRHP) requires that Vendor file the required Vendor Responsibility Questionnaire.

To comply with the Vendor Responsibility Requirements outlined in Section 6.20, Administrative. Vendor Responsibility Questionnaire, I hereby certify:

### Choose One:

- The total value bid/proposed is less than \$100,000; therefore, a Vendor Responsibility Questionnaire is not required at this time.<sup>1</sup>
- An on-line Vendor Responsibility Questionnaire has been updated or created at OSC's website: <https://portal.osc.state.ny.us> within the last six months.
- A hard copy Vendor Responsibility Questionnaire is included with this proposal/bid and is dated within the last six months. <https://www.osc.state.ny.us/state-vendors/vendrep/profit-non-construction-questionnaire>
- A Vendor Responsibility Questionnaire is not required due to an exempt status. Exemptions include governmental entities, public authorities, public colleges and universities, public benefit corporations, and Indian Nations. [https://www.osc.state.ny.us/vendrep/documents/vendrep/document\\_requirements.pdf](https://www.osc.state.ny.us/vendrep/documents/vendrep/document_requirements.pdf)

Certification	
Company Name:	
Doing Business As:	
Name of Official:	Title
E-Mail	Telephone:
<hr/> <div style="display: flex; justify-content: space-between;"> <span>Signature</span> <span>Date</span> </div>	

January 2019

<sup>1</sup> If during the term of the contract the value exceeds \$100,000 due to an amendment or extension, a Vendor Responsibility Questionnaire may be required.



# Attachment 9 - No Bid Form

If your firm has chosen not to bid on this procurement opportunity, please use the space below to briefly explain why and return this form to:

Office of Parks, Recreation and Historic Preservation  
Contract Bureau  
625 Broadway  
Albany, NY 12207

Reason(s):

Certification	
Company Name:	
Doing Business As:	
Name of Official:	Title
E-Mail	Telephone:
<p>_____</p> <p style="text-align: center;">Signature <span style="float: right;">Date</span></p>	



# Contractor Certification to Covered Agency

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

# ST-220-CA

(12/11)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need Help?* on back).

Contractor name		For covered agency use only Contract number or description	
Contractor's principal place of business	City	State	ZIP code
Contractor's mailing address (if different than above)		Estimated contract value over the full term of contract (but not including renewals)	
Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)		\$
Contractor's telephone number	Covered agency name		
Covered agency address		Covered agency telephone number	

I, \_\_\_\_\_, hereby affirm, under penalty of perjury, that I am \_\_\_\_\_

(name)

(title)

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:

(Mark an X in only one box)

The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.

The contractor has previously filed Form ST-220-TD with the Tax Department in connection with \_\_\_\_\_  
(insert contract number or description)

and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
(sign before a notary public)

\_\_\_\_\_  
(title)

## Instructions

### General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. See *Need help?* for more information on how to obtain this publication. In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

**Note:** Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

### When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned *on or after April 26, 2006* (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the \_\_\_ day of \_\_\_\_\_ in the year 20\_\_\_, before me personally appeared \_\_\_\_\_,
known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that
\_he resides at \_\_\_\_\_,
Town of \_\_\_\_\_,
County of \_\_\_\_\_,
State of \_\_\_\_\_; and further that:

[Mark an X in the appropriate box and complete the accompanying statement.]

- (If an individual): \_he executed the foregoing instrument in his/her name and on his/her own behalf.
(If a corporation): \_he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, \_he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
(If a partnership): \_he is a \_\_\_\_\_ of \_\_\_\_\_, the partnership described in said instrument; that, by the terms of said partnership, \_he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
(If a limited liability company): \_he is a duly authorized member of \_\_\_\_\_, LLC, the limited liability company described in said instrument; that \_he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public

Registration No.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?

Visit our Web site at www.tax.ny.gov
• get information and manage your taxes online
• check for new online services and features

Telephone assistance

Sales Tax Information Center: (518) 485-2889
To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.



# Contractor Certification

(Pursuant to Tax Law Section 5-a, as amended, effective April 26, 2006)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need help?* below).

Contractor name				
Contractor's principal place of business		City	State	ZIP code
Contractor's mailing address (if different than above)		City	State	ZIP code
Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)		Contractor's telephone number (     )	
Covered agency or state agency	Contract number or description		Covered agency telephone number (     )	
Covered agency address	City	State	ZIP code	
Is the estimated contract value over the full term of the contract (but not including renewals) more than \$100,000?				
Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown at this time <input type="checkbox"/>				

### General information

Tax Law section 5-a, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file Form ST-220-CA, *Contractor Certification to Covered Agency*, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and *Individual, Corporation, Partnership, or LLC Acknowledgement* on page 4. If you do not complete these areas, the form will be returned to you for completion.

For more detailed information regarding this form and Tax Law section 5-a, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*. See *Need help?* for more information on how to obtain this publication.

**Note:** Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.


Mail completed form to:

**NYS TAX DEPARTMENT  
DATA ENTRY SECTION  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0826**

### Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

### Need help?


 Visit our Web site at **[www.tax.ny.gov](http://www.tax.ny.gov)**

- get information and manage your taxes online
- check for new online services and features

### Telephone assistance

**Sales Tax Information Center:** (518) 485-2889  
To order forms and publications: (518) 457-5431

**Text Telephone (TTY) Hotline** (for persons with hearing and speech disabilities using a TTY): (518) 485-5082

 **Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.

I, \_\_\_\_\_, hereby affirm, under penalty of perjury, that I am \_\_\_\_\_  
(name) (title)  
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

**Complete Sections 1, 2, and 3 below. Make only one entry in each section.**

**Section 1 – Contractor registration status**

- The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to Tax Law sections 1134 and 1253, and is listed on Schedule A of this certification.
- The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

**Section 2 – Affiliate registration status**

- The contractor does not have any affiliates.
- To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to Tax Law sections 1134 and 1253. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

**Section 3 – Subcontractor registration status**

- The contractor does not have any subcontractors.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to Tax Law sections 1134 and 1253. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
(sign before a notary public)

\_\_\_\_\_  
(title)

**Schedule A – Listing of each entity (contractor, affiliate, or subcontractor) exceeding \$300,000 cumulative sales threshold**

List the contractor, or affiliate, or subcontractor in Schedule A only if such entity exceeded the \$300,000 cumulative sales threshold during the specified sales tax quarters. See directions below. For more information, see Publication 223.

A Relationship to contractor	B Name	C Address	D Federal ID number	E Sales tax ID number	F Registration in progress

Column A – Enter **C** in column A if the contractor; **A** if an affiliate of the contractor; or **S** if a subcontractor.

Column B – Name - If the entity is a corporation or limited liability company, enter the exact legal name as registered with the NY Department of State, if applicable. If the entity is a partnership or sole proprietor, enter the name of the partnership and each partner’s given name, or the given name(s) of the owner(s), as applicable. If the entity has a different DBA (doing business as) name, enter that name as well.

Column C – Address - Enter the street address of the entity’s principal place of business. Do not enter a PO box.

Column D – ID number - Enter the federal employer identification number (EIN) assigned to the entity. If the entity is an individual, enter the social security number of that person.

Column E – Sales tax ID number - Enter only if different from federal EIN in column D.

Column F – If applicable, enter an X if the entity has submitted Form DTF-17 to the Tax Department but has not received its certificate of authority as of the date of this certification.

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the \_\_\_ day of \_\_\_\_\_ in the year 20\_\_\_, before me personally appeared \_\_\_\_\_,
known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that
\_he resides at \_\_\_\_\_,
Town of \_\_\_\_\_,
County of \_\_\_\_\_,
State of \_\_\_\_\_; and further that:

(Mark an X in the appropriate box and complete the accompanying statement.)

- (If an individual): \_he executed the foregoing instrument in his/her name and on his/her own behalf.
(If a corporation): \_he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, \_he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
(If a partnership): \_he is a \_\_\_\_\_ of \_\_\_\_\_, the partnership described in said instrument; that, by the terms of said partnership, \_he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
(If a limited liability company): \_he is a duly authorized member of \_\_\_\_\_ LLC, the limited liability company described in said instrument; that \_he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public
Registration No. \_\_\_\_\_

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit A - SECTION 055000 - METAL FABRICATIONS**

**PART 1 - GENERAL**

**1.01 SUMMARY**

- A. Section Includes:
  - 1. Metal supports for exhibit components
  - 2. Miscellaneous metal connections and components
- B. Products furnished, but not installed, under this Section include the following:
  - 1. Anchor bolts, steel pipe sleeves, and slotted-channel inserts.

**1.02 COORDINATION**

- A. Coordinate selection of shop primers with topcoats to be applied over them. Comply with paint and coating manufacturers' written recommendations to ensure that shop primers and topcoats are compatible with one another.
- B. Coordinate installation of metal fabrications that are anchored to or that receive other work. Furnish setting drawings, templates, and directions for installing anchorages, including sleeves, concrete inserts, anchor bolts, and items with integral anchors. Deliver such items to Project site in time for installation.

**1.03 ACTION SUBMITTALS**

- A. Shop Drawings: Show fabrication and installation details. Include plans, elevations, sections, and details of metal fabrications and their connections. Show anchorage and accessory items. Provide Shop Drawings for the following:
  - 1. Metal supports for exhibit components

**1.04 INFORMATIONAL SUBMITTALS**

- A. Qualification Data: For professional engineer.
- B. Welding certificates.

**1.05 QUALITY ASSURANCE**

- A. Welding Qualifications: Qualify procedures and personnel according to AWS D1.1, "Structural Welding Code - Steel."
- B. Welding Qualifications: Qualify procedures and personnel according to the following:
  - 1. AWS D1.1/D1.1M, "Structural Welding Code - Steel."
  - 2. AWS D1.2/D1.2M, "Structural Welding Code - Aluminum."

**1.06 FIELD CONDITIONS**

- A. Field Measurements: Verify actual locations of walls and other construction contiguous with metal fabrications by field measurements before fabrication and indicate measurements on the shop drawings.
  - 1. Established dimensions: Where field measurements cannot be made without delaying the work, establish dimensions and proceed with fabricating metal fabrications without field measurements. Coordinate wall and other contiguous construction to ensure that actual dimensions correspond with established dimensions.



**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit A - SECTION 055000 - METAL FABRICATIONS**

**PART 2 - PRODUCTS**

**2.01 METALS**

- A. Metal Surfaces, General: Provide materials with smooth, flat surfaces unless otherwise indicated. For metal fabrications exposed to view in the completed Work, provide materials without seam marks, roller marks, rolled trade names, or blemishes.
- B. Steel Plates, Shapes, and Bars: ASTM A36/A36M.
- C. Rolled-Steel Floor Plate: ASTM A 786, rolled from plate complying with ASTM A36/A36M or ASTM A283/A283M, Grade C or D.
- D. Steel Pipe: ASTM A53/A53M, Standard Weight (Schedule 40) unless otherwise indicated.
- E. Slotted Channel Framing: Cold-formed metal box channels (struts) complying with MFMA-4.
  - 1. Size of Channels: or as indicated.
  - 2. Material: Galvanized steel, ASTM A653/A653M, commercial steel, Type B, with G90 coating; 0.108-inch nominal thickness.
- F. Aluminum Extrusions: ASTM B221, Alloy 6063-T5 or 6.
- G. Aluminum Sheet: ASTM B209, Alloy 5005-H34.
- H. Aluminum Castings: ASTM B26/B26M, Alloy 443.0-F.

**2.02 FASTENERS**

- A. General: Unless otherwise indicated, provide Type 316 stainless-steel fasteners.
  - 1. Provide stainless-steel fasteners for fastening aluminum.
- B. Steel Bolts and Nuts: Regular hexagon-head bolts, ASTM A307, Grade A; with hex nuts, ASTM A653/A653M; and, where indicated, flat washers.
- C. Stainless-Steel Bolts and Nuts: Regular hexagon-head annealed stainless-steel bolts, ASTM F593; with hex nuts, ASTM F594; and, where indicated, flat washers; Alloy Group 2.
- D. Anchor Bolts: ASTM F1554, Grade 36, of dimensions indicated; with nuts, ASTM A563; and, where indicated, flat washers.
  - 1. Hot-dip galvanize or provide mechanically deposited, zinc coating where item being fastened is indicated to be galvanized.
- E. Plain Washers: Round, ASME B18.22.1.
- F. Anchors, General: Anchors capable of sustaining, without failure, a load equal to six times the load imposed when installed in unit masonry and four times the load imposed when installed in concrete, as determined by testing according to ASTM E488/E488M, conducted by a qualified independent testing agency.
- G. Post-Installed Anchors: Torque-controlled expansion anchors.
  - 1. Material for Exterior Locations and Where Stainless Steel Is Indicated: Alloy Group 1 stainless-steel bolts, ASTM F593, and nuts, ASTM F594.

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit A - SECTION 055000 - METAL FABRICATIONS**

**2.03 FABRICATION, GENERAL**

- A. Shop Assembly: Pre-assemble items in the shop to greatest extent possible. Disassemble units only as necessary for shipping and handling limitations. Use connections that maintain structural value of joined pieces. Clearly mark units for reassembly and coordinated installation.
- B. Cut, drill, and punch metals cleanly and accurately. Remove burrs and ease edges to a radius of approximately 1/32 inch unless otherwise indicated. Remove sharp or rough areas on exposed surfaces.
- C. Form exposed work with accurate angles and surfaces and straight edges.
- D. Weld corners and seams continuously to comply with the following:
  - 1. Use materials and methods that minimize distortion and develop strength and corrosion resistance of base metals.
  - 2. Obtain fusion without undercut or overlap.
  - 3. Remove welding flux immediately.
  - 4. At exposed connections, finish exposed welds and surfaces smooth and blended so no roughness shows after finishing and contour of welded surface matches that of adjacent surface.
- E. Form exposed connections with hairline joints, flush and smooth, using concealed fasteners or welds where possible. Where exposed fasteners are required, use Phillips flat-head (countersunk) fasteners unless otherwise indicated. Locate joints where least conspicuous.
- F. Cut, reinforce, drill, and tap metal fabrications as indicated to receive finish hardware, screws, and similar items.
- G. Provide for anchorage of type indicated; coordinate with supporting structure. Space anchoring devices to secure metal fabrications rigidly in place and to support indicated loads.

**2.04 MISCELLANEOUS FRAMING AND SUPPORTS**

- A. General: Provide steel framing and supports not specified in other Sections as needed to complete the Work.
- B. Fabricate units from steel shapes, plates, and bars of welded construction unless otherwise indicated. Fabricate to sizes, shapes, and profiles indicated and as necessary to receive adjacent construction.
  - 1. Fabricate units from slotted channel framing where indicated.
- C. Fabricate steel pipe columns for supporting wood frame construction from steel pipe with steel baseplates and top plates as indicated. Drill or punch baseplates and top plates for anchor and connection bolts and weld to pipe with fillet welds all around. Make welds the same size as pipe wall thickness unless otherwise indicated.
  - 1. Unless otherwise indicated, fabricate from Schedule 40 steel pipe.
  - 2. Unless otherwise indicated, provide 1/2-inch baseplates with four 5/8-inch anchor bolts and 1/4-inch top plates.
- D. Galvanize miscellaneous framing and supports where indicated.

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit A - SECTION 055000 - METAL FABRICATIONS**

2.05 FINISHES, GENERAL

- A. Finish metal fabrications after assembly.
- B. Finish exposed surfaces to remove tool and die marks and stretch lines, and to blend into surrounding surface.

2.06 ALUMINUM FINISHES

- A. As-Fabricated Finish: AA-M12.
- B. Clear Anodic Finish: AAMA 611, Class I, AA-M12C22A41.
- C. Paint: Urethane over chemically pretreated substrate.
  - 1. Color: As scheduled on drawings.

PART 3 - EXECUTION

3.01 EXAMINATION

- A. If substrate preparation is the responsibility of another installer, notify Architect of unsatisfactory preparation before proceeding.
- B. Examine materials upon arrival at site. Notify the carrier and manufacturer of any damage.

3.02 INSTALLATION, GENERAL

- A. Install all factory-fabricated items in accordance with the manufacturer's specifications and recommendations.
- B. Cutting, Fitting, and Placement: Perform cutting, drilling, and fitting required for installing metal fabrications. Set metal fabrications accurately in location, alignment, and elevation; with edges and surfaces level, plumb, true, and free of rack; and measured from established lines and levels.
- C. Fit exposed connections accurately together to form hairline joints. Weld connections that are not to be left as exposed joints but cannot be shop welded because of shipping size limitations. Do not weld, cut, or abrade surfaces of exterior units that have been hot-dip galvanized after fabrication and are for bolted or screwed field connections.
- D. Field Welding: Comply with the following requirements:
  - 1. Use materials and methods that minimize distortion and develop strength and corrosion resistance of base metals.
  - 2. Obtain fusion without undercut or overlap.
  - 3. Remove welding flux immediately.
  - 4. At exposed connections, finish exposed welds and surfaces smooth and blended so no roughness shows after finishing and contour of welded surface matches that of adjacent surface.
- E. Fastening to In-Place Construction: Provide anchorage devices and fasteners where metal fabrications are required to be fastened to in-place construction. Provide threaded fasteners for use with concrete and masonry inserts, toggle bolts, through bolts, lag screws, and other connectors.

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit A - SECTION 055000 - METAL FABRICATIONS**

- F. Provide temporary bracing or anchors in formwork for items that are to be built into concrete, masonry, or similar construction.

**3.03 PROTECTION**

- A. Protect installed products until completion of project.

**3.04 ADJUSTING AND CLEANING**

- A. Touch-up, repair or replace damaged Aluminum products prior to Substantial Completion.

**END OF SECTION**

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit B - SECTION 055213 - PIPE AND TUBE RAILINGS**

**PART 1 - GENERAL**

**1.01 SUMMARY**

- A. Section Includes:
  - 1. Steel pipe and tube railings.

**1.02 PERFORMANCE REQUIREMENTS**

- A. Delegated Design: Design railings, including comprehensive engineering analysis by a qualified professional engineer, using performance requirements and design criteria indicated.
- B. General: In engineering railings to withstand structural loads indicated, determine allowable design working stresses of railing materials in accordance with ANSI/NAAMM AMP 521 - latest edition and based on the following:
  - 1. Steel: 72 percent of minimum yield strength.
- C. Structural Performance: Railings shall withstand the effects of gravity loads and the following loads and stresses within limits and under conditions indicated:
  - 1. Handrails and Top Rails of Guards:
    - a. Uniform load of 50 lbf/ ft. (0.73 kN/m) applied in any direction.
    - b. Concentrated load of 200 lbf (0.89 kN) applied in any direction.
    - c. Uniform and concentrated loads need not be assumed to act concurrently.
- D. Control of Corrosion: Prevent galvanic action and other forms of corrosion by insulating metals and other materials from direct contact with incompatible materials.

**1.03 ACTION SUBMITTALS**

- A. Product Data: For the following:
  - 1. Manufacturer's product lines of mechanically connected railings.
  - 2. Railing brackets.
- B. Shop Drawings: Include plans, elevations, sections, details, and attachments to other work.

**1.04 QUALITY ASSURANCE**

- A. Source Limitations: Obtain each type of railing from single source from single manufacturer.
- B. Welding Qualifications: Qualify procedures and personnel according to the following:
  - 1. AWS D1.1/D1.1M, "Structural Welding Code - Steel."

**PART 2 - PRODUCTS**

**2.01 MANUFACTURERS**

- A. Manufacturers: Subject to compliance with requirements, available manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:
  - 1. Steel Pipe and Tube Railings:

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit B - SECTION 055213 - PIPE AND TUBE RAILINGS**

- a. Wagner, R & B, Inc.; a division of the Wagner Companies.
- b. Or approved equal.
2. Finish: Powdercoated matte black, refer to Specification 099123 Interior Painting for additional information.

**2.02 METALS, GENERAL**

- A. Metal Surfaces, General: Provide materials with smooth surfaces, without seam marks, roller marks, rolled trade names, stains, discolorations, or blemishes.
- B. Brackets, Flanges, and Anchors: Cast or formed metal of same type of material and finish as supported rails unless otherwise indicated.

**2.03 STEEL AND IRON**

- A. Tubing: ASTM A 500 (cold formed) or ASTM A 513.
- B. Pipe: ASTM A 53/A 53M, Type F or Type S, Grade A, Standard Weight (Schedule 40), unless another grade and weight are required by structural loads.
  1. Provide galvanized finish for exterior installations and where indicated.
- C. Plates, Shapes, and Bars: ASTM A 36/A 36M.

**2.04 FASTENERS**

- A. General: Provide the following:
  1. Hot-Dip Galvanized Railings: Type 304 stainless-steel or hot-dip zinc-coated steel fasteners complying with ASTM A 153/A 153M or ASTM F 2329 for zinc coating.
- B. Fasteners for Anchoring Railings to Other Construction: Select fasteners of type, grade, and class required to produce connections suitable for anchoring railings to other types of construction indicated and capable of withstanding design loads. ASTM E894.
- C. Fasteners for Interconnecting Railing Components:
  1. Provide concealed fasteners for interconnecting railing components and for attaching them to other work, unless otherwise indicated.
  2. Provide concealed fasteners for interconnecting railing components and for attaching them to other work, unless exposed fasteners are unavoidable or are the standard fastening method for railings indicated.
  3. Provide tamper-resistant flat-head machine screws for exposed fasteners unless otherwise indicated.
- D. Material for Exterior Locations and Where Stainless Steel is Indicated: Alloy Group 2 (A4) stainless-steel bolts, ASTM F 593 (ASTM F 738M), and nuts, ASTM F 594 (ASTM F 836M).

**2.05 MISCELLANEOUS MATERIALS**

- A. Welding Rods and Bare Electrodes: Select according to AWS specifications for metal alloy welded.

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit B - SECTION 055213 - PIPE AND TUBE RAILINGS**

**2.06 FABRICATION**

- A. General: Fabricate railings to comply with requirements indicated for design, dimensions, member sizes and spacing, details, finish, and anchorage, but not less than that required to support structural loads.
- B. Assemble railings in the shop to greatest extent possible to minimize field splicing and assembly. Disassemble units only as necessary for shipping and handling limitations. Clearly mark units for reassembly and coordinated installation. Use connections that maintain structural value of joined pieces.
- C. Cut, drill, and punch metals cleanly and accurately. Remove burrs and ease edges to a radius of approximately 1/32 inch (1 mm) unless otherwise indicated. Remove sharp or rough areas on exposed surfaces.
- D. Form work true to line and level with accurate angles and surfaces.
- E. Fabricate connections that will be exposed to weather in a manner to exclude water. Provide weep holes where water may accumulate.
- F. Cut, reinforce, drill, and tap as indicated to receive finish hardware, screws, and similar items.
- G. Connections: Fabricate railings with welded connections unless otherwise indicated.
- H. Welded Connections: Cope components at connections to provide close fit, or use fittings designed for this purpose. Weld all around at connections, including at fittings.
  - 1. Use materials and methods that minimize distortion and develop strength and corrosion resistance of base metals.
  - 2. Obtain fusion without undercut or overlap.
  - 3. Remove flux immediately.
  - 4. At exposed connections, finish exposed surfaces smooth and blended so no roughness shows after finishing and welded surface matches contours of adjoining surfaces.
- I. Form changes in direction as follows:
  - 1. As detailed.
- J. Bend members in jigs to produce uniform curvature for each configuration required; maintain cross section of member throughout entire bend without buckling, twisting, cracking, or otherwise deforming exposed surfaces of components.
- K. Close exposed ends of railing members with prefabricated end fittings.
- L. Brackets, Flanges, Fittings, and Anchors: Provide brackets, flanges, miscellaneous fittings, and anchors to interconnect railing members to other work unless otherwise indicated.
  - 1. At brackets and fittings fastened to casework, provide crush-resistant fillers, or other means to transfer loads through wall finishes to structural supports and prevent bracket or fitting rotation and crushing of substrate.

**2.07 FINISHES, GENERAL**

- A. Comply with NAAMM's "Metal Finishes Manual for Architectural and Metal Products" for recommendations for applying and designating finishes.

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit B - SECTION 055213 - PIPE AND TUBE RAILINGS**

- B. Protect mechanical finishes on exposed surfaces from damage by applying a strippable, temporary protective covering before shipping.
- C. Appearance of Finished Work: Variations in appearance of abutting or adjacent pieces are acceptable if they are within one-half of the range of approved Samples. Noticeable variations in the same piece are not acceptable. Variations in appearance of other components are acceptable if they are within the range of approved Samples and are assembled or installed to minimize contrast.
- D. Provide exposed fasteners with finish matching appearance, including color and texture, of railings.

**PART 3 - EXECUTION**

**3.01 EXAMINATION**

- A. Examine construction to ensure that support angles are in place to receive anchors, to verify that locations of concealed reinforcements have been clearly marked for Installer. Locate reinforcements and mark locations if not already done.

**3.02 INSTALLATION, GENERAL**

- A. Fit exposed connections together to form tight, hairline joints.
- B. Perform cutting, drilling, and fitting required for installing railings. Set railings accurately in location, alignment, and elevation; measured from established lines and levels and free of rack.
  - 1. Do not weld, cut, or abrade surfaces of railing components that have been coated or finished after fabrication and that are intended for field connection by mechanical or other means without further cutting or fitting.
  - 2. Set posts plumb within a tolerance of 1/16 inch in 3 feet (2 mm in 1 m).
- C. Adjust railings before anchoring to ensure matching alignment at abutting joints.
- D. Fastening: Use anchorage devices and fasteners for securing railings and for properly transferring loads to adjoining support structure.

**3.03 RAILING CONNECTIONS**

- A. Welded Connections: Use fully welded joints for permanently connecting railing components. Comply with requirements for welded connections in "Fabrication" Article whether welding is performed in the shop or in the field.

**3.04 ADJUSTING AND CLEANING**

- A. Clean by washing thoroughly with clean water and soap and rinsing with clean water.
- B. Touchup Painting: Cleaning and touchup painting of field welds, bolted connections, and abraded areas of shop paint are specified in Section 099123 - Interior Painting

**3.05 PROTECTION**

- A. Protect finishes of railings from damage during construction period with temporary protective coverings approved by railing manufacturer. Remove protective coverings at time of Substantial Completion.



**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental  
Education and Resiliency Center**

**Exhibit B - SECTION 055213 - PIPE AND TUBE RAILINGS**

**END OF SECTION**

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit C - SECTION 061000 - ROUGH CARPENTRY**

**PART 1 - GENERAL**

**1.01 SUMMARY**

- A. Section Includes:
  - 1. Miscellaneous Framing and Sheathing.
  - 2. Fasteners.
  - 3. Wood blocking, cants, and nailers.
  - 4. Wood furring and grounds.

**1.02 REFERENCES:**

- A. APA - American Plywood Association.
- B. International Code Council (ICC):
  - 1. ICC IBC - International Building Code

**1.03 DEFINITIONS**

- A. Exposed Framing: Framing not concealed by other construction.
- B. Dimension Lumber: Lumber of 2 inches nominal or greater but less than 5 inches nominal in least dimension.
- C. Lumber grading agencies, and the abbreviations used to reference them, include the following:
  - 1. NeLMA: Northeastern Lumber Manufacturers' Association.
  - 2. NLGA: National Lumber Grades Authority.
  - 3. SPIB: The Southern Pine Inspection Bureau.
  - 4. WCLIB: West Coast Lumber Inspection Bureau.
  - 5. WWPA: Western Wood Products Association.

**1.04 INFORMATIONAL SUBMITTALS**

- A. Material Certificates: For dimension lumber specified to comply with minimum allowable unit stresses. Indicate species and grade selected for each use and design values approved by the ALSC Board of Review.
- B. Evaluation Reports: For the following, from ICC-ES:
  - 1. Plywood.
  - 2. Power-driven fasteners.

**PART 2 - PRODUCTS**

**2.01 WOOD PRODUCTS, GENERAL**

- A. Certified Wood: Materials shall be produced from wood obtained from forests certified by an FSC-accredited certification body to comply with FSC STD-01-001, "FSC Principles and Criteria for Forest Stewardship" for the following:
  - 1. Dimension lumber framing.
  - 2. Miscellaneous lumber.
- B. Lumber: DOC PS 20 and applicable rules of grading agencies indicated. If no grading agency is indicated, provide lumber that complies with the applicable rules of any rules-writing agency

## SECTION 061000 - ROUGH CARPENTRY

certified by the ALSC Board of Review. Provide lumber graded by an agency certified by the ALSC Board of Review to inspect and grade lumber under the rules indicated.

1. Factory mark each piece of lumber with grade stamp of grading agency.
  2. For exposed lumber indicated to receive a stained or natural finish, mark grade stamp on end or back of each piece or omit grade stamp and provide certificates of grade compliance issued by grading agency.
  3. Where nominal sizes are indicated, provide actual sizes required by DOC PS 20 for moisture content specified. Where actual sizes are indicated, they are minimum dressed sizes for dry lumber.
  4. Provide dressed lumber, S4S, unless otherwise indicated.
- C. Maximum Moisture Content of Lumber: 15 percent for 2-inch nominal thickness or less, 19 percent for more than 2-inch nominal thickness 15 percent for 2-inch nominal thickness or less, no limit for more than 2-inch nominal thickness unless otherwise indicated.
- D. Plywood: Conform to requirements and recommendations provided in DOC PS 1 - Voluntary Product Standard for Construction and Industrial Structural Plywood.

### 2.02 MISCELLANEOUS LUMBER

- A. General: Provide miscellaneous lumber indicated and lumber for support or attachment of other construction, including the following:
1. Blocking.
  2. Nailers.
  3. Grounds.
- B. For items of dimension lumber size, provide Construction or No. 2 grade lumber and any of the following species:
1. Hem-fir (north); NLGA.
  2. Mixed southern pine; SPIB.
  3. Hem-fir; WCLIB or WWPA.
  4. Spruce-pine-fir (south); NeLMA, WCLIB, or WWPA.
- C. For concealed boards, provide lumber with 15 percent maximum moisture content and any of the following species and grades:
1. Spruce-pine-fir (south) or spruce-pine-fir; Construction or No. 2 Common grade; NeLMA, NLGA, WCLIB, or WWPA.
  2. Eastern softwoods; No. 2 Common grade; NeLMA.
- D. For blocking not used for attachment of other construction, Utility, Stud, or No. 3 grade lumber of any species may be used provided that it is cut and selected to eliminate defects that will interfere with its attachment and purpose.
- E. For blocking and nailers used for attachment of other construction, select and cut lumber to eliminate knots and other defects that will interfere with attachment of other work.
- F. For furring strips for installing plywood or hardboard paneling, select boards with no knots capable of producing bent-over nails and damage to paneling.

### 2.03 FASTENERS

- A. General: Provide fasteners of size and type indicated that comply with requirements specified in this article for material and manufacture.
- B. Power-Driven Fasteners: NES NER-272.

## SECTION 061000 - ROUGH CARPENTRY

- C. Wood Screws: ASME B16.1.
- D. Lag Bolts: ASME B18.2.1.
- E. Bolts: Steel bolts complying with ASTM A307, Grade A; with ASTM A563 hex nuts and, where indicated, flat washers.

### PART 3 - EXECUTION

#### 3.01 PREPARATION OF SURFACES

- A. Surfaces to receive new wood members shall be free of all dirt, debris, and loose materials. Exposed surfaces shall be mechanically scraped if necessary, to remove projections.
- B. Surfaces shall have no free water present in any form (rain, dew, frost, snow or ice).
- C. Contractor is responsible to inspect all exposed surfaces to see that conditions are satisfactory for installation of new work.

#### 3.02 INSTALLATION, GENERAL

- A. Set rough carpentry to required levels and lines, with members plumb, true to line, cut, and fitted. Fit rough carpentry to other construction; scribe and cope as needed for accurate fit. Locate furring, nailers, blocking, grounds, and similar supports to comply with requirements for attaching other construction.
- B. Coordinate installation with adjacent construction.
- C. Provide blocking and framing as indicated and as required to support facing materials, fixtures, specialty items, and trim.
  - 1. Provide metal clips for fastening gypsum board or lath at corners and intersections where framing or blocking does not provide a surface for fastening edges of panels. Space clips not more than 16 inches o.c.
- D. Warped wood members shall not be used unless they can be fastened adequately to permanently hold them in their required alignment.
- E. For exposed work, arrange fasteners in straight rows parallel with edges of members, with fasteners evenly spaced, and with adjacent rows staggered.
  - 1. Comply with approved fastener patterns where applicable. Before fastening, mark fastener locations, using a template made of sheet metal, plastic, or cardboard.
  - 2. Use finishing nails unless otherwise indicated. Countersink nail heads and fill holes with wood filler.
  - 3. Use common nails unless otherwise indicated. Drive nails snug but do not countersink nail heads.

**END OF SECTION**

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit D - SECTION 064100 - ARCHITECTURAL WOOD CASEWORK**

**PART 1 GENERAL**

**1.01 SECTION INCLUDES**

- A. Fabricated wall mounted and free-standing cabinet exhibit units
- B. Solid surface panels.
- C. Pendant mounted light fixtures.
- D. Pendant mounted exhibits.
- E. Visual display surfaces.
- F. Cabinet hardware.
- G. Factory finishing.
- H. Preparation for installing utilities.

**1.02 REFERENCE STANDARDS**

- A. AWI/AWMAC/WI (AWS) - Architectural Woodwork Standards; 2014, with Errata (2016).
- B. AWMAC/WI (NAAWS) - North American Architectural Woodwork Standards, U.S. Version 3.1; 2016, with Errata (2017).
- C. BHMA A156.9 - American National Standard for Cabinet Hardware; 2015.
- D. HPVA HP-1 - American National Standard for Hardwood and Decorative Plywood; 2016.
- E. NEMA LD 3 - High-Pressure Decorative Laminates; 2005.

**1.03 ADMINISTRATIVE REQUIREMENTS**

- A. Preinstallation Meeting: Convene a preinstallation meeting not less than one week before starting work of this section; require attendance by all affected installers.

**1.04 SUBMITTALS**

- A. Shop Drawings: Indicate materials, component profiles, fastening methods, jointing details, hardware, finishes and accessories.
  - 1. Scale of Drawings: 1-1/2 inch to 1 foot (125 mm to 1 m), minimum.
- B. Product Data: Provide data for all materials, hardware and accessories.
- C. Samples: Provide samples for all materials, hardware and accessories.

**1.05 DELIVERY, STORAGE, AND HANDLING**

- A. Protect units from moisture damage.

## SECTION 064100 - ARCHITECTURAL WOOD CASEWORK

### 1.06 FIELD CONDITIONS

- A. During and after installation of custom cabinets, maintain temperature and humidity conditions in building spaces at same levels planned for occupancy.

## PART 2 PRODUCTS

### 2.01 WALL MOUNTED AND FREE STANDING EXHIBIT CABINETS

- A. Quality Standard: Custom Grade, in accordance with AWI/AWMAC/WI (AWS) or AWMAC/WI (NAAWS), unless noted otherwise.
- B. Wood fabricated from old growth timber is not permitted.
- C. Wood fabricated from timber recovered from riverbeds or otherwise abandoned is permitted, unless otherwise noted, provided it is clean and free of contamination; identify source; provide lumber re-graded by an inspection service accredited by the American Lumber Standard Committee, Inc.
- D. Wood Veneer Faced Exhibit Cabinets:
  - 1. Exposed Surfaces: 3/4" Maple Cabinet Grade Hardwood Plywood, Grade A-1, 7-Ply Veneer Core.
    - a. Cut: Plained sliced
    - b. Matching: Book Match
    - c. Finish: Clear Lacquer, see section 099123 Interior Painting
    - d. Hardwood Edgebanding: Use solid hardwood edgebanding matching species, color, grain, and grade for exposed portions of cabinetry.
  - 2. Concealed Surfaces: HPVA HP-1 Grade C, Baltic Birch, plain sliced, \_\_\_\_\_.

### 2.02 SOLID SURFACE PANELS

- A. Solid-Surfacing Material: Homogeneous solid sheets of filled plastic resin complying with ISSFA-2.
  - 1. See Section 123661.16 - SOLID SURFACE MATERIALS

### 2.03 PENDANT MOUNTED LIGHT FIXTURES

- A. Custom fabricated pendant mounted light fixtures as shown on the drawings.
  - 1. Canopy Plate: Round aluminum plate, finish to match metal components
  - 2. Support: Structural hollow aluminum conduit with national pipe thread adapter connection. Conduit will act as a wireway for LED lights.
  - 3. Exposed Metal Finishes: Aluminum Mill Finish
  - 4. Electrical Connection: 14/2 AWG SPT-2 Wire
  - 5. Light Fixture: Luminum 120V LED Strip or approved equal
  - 6. Diffuser: Frosted Acrylic
  - 7. Diffuser Color: Clear
  - 8. Shade Holder: Aluminum flange as shown in drawings
  - 9. Shade Material: Linen, fire-resistant
  - 10. Shade: Custom shade as manufactured by Fenchel shades or approved equal
  - 11. Shade Graphic: To be provided by Others. Fabricated and installed by exhibit installer.

### 2.04 PENDANT MOUNTED EXHIBITS

- A. Hardware: As shown on drawings.

## SECTION 064100 - ARCHITECTURAL WOOD CASEWORK

- B. Refer to drawings for pendant mounted sculptural elements additional information.

### 2.05 VISUAL DISPLAY SURFACES

- A. High Pressure Laminate (HPL) Graphic Panels (Full thickness HPL with direct to surface digital print graphic).
  - 1. Manufacturers Basis of Design:
    - a. Fossil Industries - <https://fossilgraphics.com/other/contact-us>– Graphic Panels-
    - b. IZone Imaging - <http://www.izoneimaging.com/how-we-can-help/contact-us/> - Graphic Panels - Temple, TX 76502
    - c. Or approved equal
  - 2. Graphic Content: To be provided by Others. Fabricated and installed by exhibit installer.
  - 3. Warranty to be at minimum three (3) years against fading, cracking, chipping and peeling.
    - a. Graphics to be installed by a manufacturer's certified installer to preserve warranty
  - 4. Sample: Provide sample of a finish product 4" x 6" min. size to Exhibit Designer for review and approval.
- B. Mounted Acrylic Panels with stand offs
  - 1. 1/2" Clear Acrylic Panel with image print
  - 2. Image Print: RGB Lambda Matte C-Print, mounted to second surface of acrylic panel
  - 3. Edges: Trim to size with polished eased edges
  - 4. Corners: rounded 1/4' radius
  - 5. Graphic Content: To be provided by Others. Fabricated and installed by exhibit installer.
  - 6. Mounting: Aluminum finish stand off system, thru holes located at each corner and 3/4" offset from outer edge of acrylic panel
    - a. Basis of Design: Model #STDE-A1313-SL as manufactured by Outwater Plastics and
    - b. Size: 1/2" diameter x 1/2" barrel length with 3/16" cap
    - c. Material: 6063 T5 alloy
- C. Backlit Acrylic Panels
  - 1. 1/4" Clear Acrylic Panel with image print
  - 2. Image Print: RGB Lambda Duratrans, mounted to second surface of acrylic panel
  - 3. Edges: Square
  - 4. Corners: Square
  - 5. Light Panel: Super Bright White LLS LED Lighting Sheet, 24V IP20 Cool White 5,000K, Part Number: LLS-A50K80-C1A-30A01-24V or approved equal.
  - 6. Graphic Content: To be provided by Others. Fabricated and installed by exhibit installer.
  - 7. Mounting: Millwork MDF boxes insert, refer to drawings for additional information. Box to be painted as shown on the drawings.
- D. Artifact Cases
  - 1. Box Material: 3/4" thick MDF, black lacquer finish
  - 2. 1/2" clear acrylic box, edges to be museum grade finish or as shown in drawings
  - 3. Lighting: 5m White LED Strip Light - Radiant Series LED Tape light, 12V/24V - IP20 or approved equal.
  - 4. Lighting Mounting:
    - a. Basis of Design: Superbright Leds Klus micro-alu mounting system for LED strip lights or approved equal.
    - b. Finish: Black anodized aluminum
    - c. Channel Cover: Frosted lens
  - 5. Felt: McMaster-Carr Model # 5051K422 or approved equal. Finish, black.

### 2.06 SIGNAGE

- A. Lettering:

## SECTION 064100 - ARCHITECTURAL WOOD CASEWORK

1. 3/8" thick Aluminum letters cut to shape, height as shown in drawings.
  2. Font style: Avenir Next
  3. Finish: Powdercoated black, unless otherwise noted.
- B. Pendant Mounted Banner:
1. Manufacturers:
    - a. Color Edge - <https://coloredge.com/>
    - b. Signs and Decal - <https://www.signsanddecal.com/>
    - c. Signarama - <https://signarama.com/>
    - d. Or approved equal.
  2. Mounting: Pendant
  3. Size 48" x 48" or as shown on drawings
  4. Material: Vinyl
  5. Graphic content: To be provided by Others. Fabricated and installed by exhibit installer.

### 2.07 ACCESSORIES

- A. Adhesive: Type recommended by fabricator to suit application.
1. Manufacturers:
    - a. Franklin International, Inc; Titebond Original Wood Glue: [www.titebond.com/sle](http://www.titebond.com/sle).
    - b. Or approved equal.
- B. Fasteners: Size and type to suit application.
- C. Bolts, Nuts, Washers, Lags, Pins, and Screws: Of size and type to suit application; galvanized or chrome-plated finish in concealed locations and stainless steel or chrome-plated finish in exposed locations.
- D. Concealed Joint Fasteners: Threaded steel.

### 2.08 HARDWARE

- A. Access Panels Cam Lock: Keyed cylinder, two keys per lock, master keyed, steel with chrome finish.
- B. Hinges: Continuous Piano Hinges type, steel with polished finish.
1. Manufacturers:
    - a. Grass America Inc: [www.grassusa.com](http://www.grassusa.com).
    - b. Blum, Inc; \_\_\_\_\_: [www.blum.com](http://www.blum.com).
    - c. Or approved equal

### 2.09 FABRICATION

- A. Assembly: Shop assemble exhibit cabinetry for delivery to site in units easily handled and to permit passage through building openings.
- B. Edging: Fit shelves, doors, and exposed edges with specified edging. Do not use more than one piece for any single length.
- C. Fitting: When necessary to cut and fit on site, provide materials with ample allowance for cutting. Provide matching trim for scribing and site cutting.
- D. Matching Wood Grain: Comply with requirements of quality standard for specified Grade and as follows:
1. Provide center matched panels at each elevation.



## SECTION 064100 - ARCHITECTURAL WOOD CASEWORK

2. Provide sequence matching across each elevation.
3. Carry figure of cabinet fronts to toe kicks.

### 2.10 SHOP FINISHING

- A. Sand work smooth and set exposed nails and screws.
- B. For opaque finishes, apply wood filler in exposed nail and screw indentations and sand smooth.
- C. On items to receive transparent finishes, use wood filler matching or blending with surrounding surfaces and of types recommended for applied finishes.
- D. For finishes refer to specification 099123 Interior Painting.

## PART 3 EXECUTION

### 3.01 EXAMINATION

- A. Verify adequacy of backing and support framing.
- B. Verify location and sizes of utility rough-in associated with work of this section.

### 3.02 INSTALLATION

- A. Install work in accordance with AWI/AWMAC/WI (AWS) or AWMAC/WI (NAAWS) requirements for grade indicated.
- B. Set and secure custom exhibit cabinetry in place, assuring that they are rigid, plumb, and level.
- C. Use fixture attachments in concealed locations for wall mounted components.
- D. Use concealed joint fasteners to align and secure adjoining sections.
- E. Carefully scribe cabinetry abutting other components, with maximum gaps of 1/32 inch (0.79 mm). Do not use additional overlay trim for this purpose.
- F. Secure cabinets as detailed using appropriate fasteners.
- G. Countersink anchorage devices at exposed locations. Conceal with solid wood plugs of species to match surrounding wood; finish flush with surrounding surfaces.

### 3.03 ADJUSTING

- A. Adjust moving or operating parts to function smoothly and correctly.

### 3.04 CLEANING

- A. Clean casework, counters, hardware, fittings, and fixtures.

## END OF SECTION

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit E SECTION 099123 - INTERIOR PAINTING**

**PART 1 - GENERAL**

**1.01 SUMMARY**

- A. Section includes surface preparation and the application of paint systems on interior substrates.
  - 1. Wood.
  - 2. Metal

**1.02 DEFINITIONS**

- A. Satin: Gloss Level 4: 20 to 35 units at 60 degrees and not less than 35 units at 85 degrees, according to ASTM D523.

**1.03 ACTION SUBMITTALS**

- A. Product Data: For each type of product. Include preparation requirements and application instructions.
- B. Samples for Initial Selection: For each type of topcoat product.
  - 1. Product List: For each product indicated, include the following:
  - 2. Cross-reference to paint system and locations of application areas. Use same designations indicated on Drawings and in schedules.
  - 3. Printout of current "MPI Approved Products List" for each product category specified in Part 2, with the proposed product highlighted.
  - 4. VOC content.

**1.04 CLOSEOUT SUBMITTALS**

- A. Coating Maintenance manual: Manual: Upon conclusion of the project, the Contractor or paint manufacturer/supplier shall furnish a coating maintenance manual, such as Sherwin-Williams "Custodian Project Color and Product Information" report or equal. Manual shall include an Area Summary with finish schedule, Area Detail designating where each product/color/finish was used, product data pages, Material Safety Data Sheets, care and cleaning instructions, touch-up procedures, and color samples of each color and finish used.

**1.05 MAINTENANCE MATERIAL SUBMITTALS**

- A. Furnish extra materials, from the same product run, that match products installed and that are packaged with protective covering for storage and identified with labels describing contents.
  - 1. Paint: 5 percent, but not less than 1 gal. of each material and color applied.

**1.06 DELIVERY, STORAGE, AND HANDLING**

- A. Store materials not in use in tightly covered containers in well-ventilated areas with ambient temperatures continuously maintained at not less than 45 deg F.
  - 1. Maintain containers in clean condition, free of foreign materials and residue.
  - 2. Remove rags and waste from storage areas daily.
- B. Delivery and Handling: Deliver products to Project site in an undamaged condition in manufacturer's original sealed containers, complete with labels and instructions for handling, storing, unpacking, protecting, and installing. Packaging shall bear the manufacturer's label with the following information:
  - 1. Product name and type (description).

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit E SECTION 099123 - INTERIOR PAINTING**

2. Batch date.
3. Color number.
4. VOC content.
5. Environmental handling requirements.
6. Surface preparation requirements.
7. Application instructions.

**1.07 FIELD AND SHOP CONDITIONS**

- A. Apply paints only when temperature of surfaces to be painted and ambient air temperatures are between 50 and 95 deg F.
- B. Do not apply paints when relative humidity exceeds 85 percent; at temperatures less than 5 deg F above the dew point; or to damp or wet surfaces.
- C. Lead Paint: It is not expected that lead paint will be encountered in the Work.

**PART 2 - PRODUCTS**

**2.01 MANUFACTURERS**

- A. Manufacturers: Subject to compliance with requirements, available manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:
  1. Benjamin Moore & Co.
  2. PPG Architectural Finishes, Inc.
  3. Sherwin-Williams Company.
  4. Tiger Drylac U.S.A., Inc.

**2.02 PAINT, GENERAL**

- A. MPI Standards: Provide products that comply with MPI standards indicated and that are listed in its "MPI Approved Products List."
- B. Material Compatibility:
  1. Provide materials for use within each paint system that are compatible with one another and substrates indicated, under conditions of service and application as demonstrated by manufacturer, based on testing and field experience.
  2. For each coat in a paint system, provide products recommended in writing by manufacturers of topcoat for use in paint system and on substrate indicated.
- C. VOC Content: Products shall comply with VOC limits of authorities having jurisdiction and, for interior paints and coatings applied at Project site, the following VOC limits, exclusive of colorants added to a tint base, when calculated according to 40 CFR 59, Subpart D (EPA Method 24).

1. Flat Paints and Coatings:	50 g/L.
2. Nonflat Paints and Coatings:	150 g/L.
3. Primers, Sealers, and Undercoaters:	200 g/L.
4. Shellacs, Clear:	730 g/L.
- D. Colors: As selected by Designer from manufacturer's full range.

**2.03 PRIMERS/SEALERS**

- A. Primer, Latex, for Interior Wood: MPI #39.

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit E SECTION 099123 - INTERIOR PAINTING**

1. Benjamin Moore - Fresh Start N023 Primer, CHPS Certified (E3)
2. Sherwin-Williams - PrepRite ProBlock Primer Sealer - B51-620 Series, at 4.0 mils wet, 1.4 mils dry. (E3)
3. Or approved equal.

**2.04 WATER-BASED PAINTS**

- A. Latex, Interior, (Gloss Level 4): MPI #43 (Pearl / Satin / Low Lustre)
1. Benjamin Moore - Ultra Spec 500 Latex Semi Gloss N539 (0 g/l), 43 X-Green (E3).
  2. Sherwin-Williams - ProMar 200 Zero VOC - Interior Latex Semi-Gloss, B31-2600 Series - (E3).
  3. Or approved equal.

**2.05 SOLVENT-BASED PAINTS**

- A. Pre-Catalized Laquer
1. ML Campbell, DesignRselect Furniture Pre-Catalyzed Clear Laquer
  2. Or approved equal

**2.06 POWDER COAT PAINTS**

- A. U.V. resistance and scratch & mar resistance formula shall consist of super durable TGIC polyester resin system with flocked and color stable full pigmentation.
- B. Chemical pretreatment:
1. Alkaline cleaner applied at 160 degrees F. for duration of 3 to 5 minutes.
  2. D.I. (Deionized) water rinse.
  3. Conversion phosphate coating applied at 140 degrees F. for 3 to 5 minutes.
  4. D.I. water rinse.
  5. Application on non-chromate, chrome sealer amorphous chromium phosphate that meets or exceeds ASTM D1730, Type B, Method 5.
  6. D.I. water rinse, and dry in place.
- C. Coating Application:
1. Electrostatic application of super TGIC system powder with a minimum dry film thickness of 3.5 to 5.5 mils cured coating.

**PART 3 - EXECUTION**

**3.01 EXAMINATION**

- A. Examine substrates and conditions, with Applicator present, for compliance with requirements for maximum moisture content and other conditions affecting performance of the Work. Verify suitability of substrates, including surface conditions and compatibility with existing finishes and primers. Where acceptability of substrate conditions is in question, apply samples and perform in-situ testing to verify compatibility, adhesion, and film integrity of new paint application.
1. Report in writing conditions that may affect application, appearance, or performance of paint.
- B. Substrate Conditions:
1. Maximum Moisture Content of Substrates: When measured with an electronic moisture meter as follows:
    - a. Wood: 15 percent.

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit E SECTION 099123 - INTERIOR PAINTING**

- C. Verify suitability of substrates, including surface conditions and compatibility with existing finishes and primers.
- D. Proceed with coating application only after unsatisfactory conditions have been corrected.
  - 1. Application of coating indicates acceptance of surfaces and conditions.

**3.02 PREPARATION**

- A. Comply with manufacturer's written instructions and recommendations in "MPI Manual" applicable to substrates indicated.
- B. Remove hardware, covers, plates, and similar items already in place that are removable and are not to be painted. If removal is impractical or impossible because of size or weight of item, provide surface-applied protection before surface preparation and painting.
  - 1. After completing painting operations, use workers skilled in the trades involved to reinstall items that were removed. Remove surface-applied protection if any.
- C. Clean substrates of substances that could impair bond of paints, including dust, dirt, oil, grease, and incompatible paints and encapsulants.
  - 1. Remove incompatible primers and reprime substrate with compatible primers or apply tie coat as required to produce paint systems indicated.
- D. Shop-Primed Steel Substrates: Clean field welds, bolted connections and abraded areas of shop paint and paint exposed areas with the same material as used for shop priming to comply with SSPC-PA 1 for touching up shop primed surfaces.
- E. Wood Substrates:
  - 1. Scrape and clean knots and apply coat of knot sealer before applying primer.
  - 2. Sand surfaces that will be exposed to view and dust off.
  - 3. Prime edges, ends, faces, undersides and backsides of wood.
  - 4. After priming, fill holes and imperfections in the finish surfaces with putty or plastic wood filler. Sand smooth when dried.
- F. Cotton or Canvas Insulation Covering Substrates: Remove dust, dirt and other foreign material that might impair the bond of paints to substrates.

**3.03 APPLICATION**

- A. Apply paints according to manufacturer's written instructions and to recommendations in "MPI Manual."
  - 1. Use applicators and techniques suited for paint and substrate indicated.
  - 2. Paint surfaces behind movable equipment and furniture same as similar exposed surfaces. Before final installation, paint surfaces behind permanently fixed equipment or furniture with prime coat only.
  - 3. Paint front and backsides of access panels, removable or hinged covers, and similar hinged items to match exposed surfaces.
  - 4. Do not paint over labels of independent testing agencies or equipment name, identification, performance rating, or nomenclature plates.
  - 5. Primers specified in painting schedules may be omitted on items that are factory primed or factory finished if acceptable to topcoat manufacturers.
- B. Tint each undercoat a lighter shade to facilitate identification of each coat if multiple coats of same material are to be applied. Tint undercoats to match color of topcoat, but provide sufficient difference in shade of undercoats to distinguish each separate coat.

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit E SECTION 099123 - INTERIOR PAINTING**

- C. If undercoats or other conditions show through topcoat, apply additional coats until cured film has a uniform paint finish, color, and appearance.
- D. Apply paints to produce surface films without cloudiness, spotting, holidays, laps, brush marks, roller tracking, runs, sags, ropiness, or other surface imperfections. Cut in sharp lines and color breaks.

**3.04 PROTECTION**

- A. Protect all exterior surfaces and areas, including landscaping, walks, drives, all adjacent building surfaces (including glass, aluminum surfaces, etc.) and equipment and any labels and signage from painting operations and damage by drop cloths, shields, masking, templates, or other suitable protective means and make good any damage caused by failure to provide such protection.
- B. Protect all interior surfaces and areas, including glass, aluminum surfaces, etc. and equipment and any labels and signage from painting operations and damage by drop cloths, shields, masking, templates, or other suitable protective means and make good any damage caused by failure to provide such protection.
- C. Erect barriers or screens and post signs to warn of or limit or direct traffic away or around work area as required.

**3.05 CLEANING**

- A. At completion of construction activities of other trades, touch up and restore damaged or defaced painted surfaces.

**3.06 INTERIOR PAINTING SCHEDULE**

- A. Metal Substrates:
  - 1. Powder Coat System:
    - a. Matte Finish:
      - 1) Two Coats: Tiger Drylac Powder Coatings or approved equal.
- B. Wood Substrates (Clear Finish):
  - 1. Lacquer System:
    - a. Clear Finish:
      - 1) Top Coat: ML Campbell, DesignRselect Furniture Pre-Catalyzed Clear Laquer.
- C. Wood Substrates (Solid Color Finish):
  - 1. Latex System:
    - a. Semi-Gloss Finish:
      - 1) First Coat: Benjamin Moore, Fresh Start Latex Primer 023 1.2 DFT.
      - 2) Second Coat: Coronado, Rust Scat Acrylic WB Int/Ext Enamel Semi-Gloss C90, 1.4-1.7 DFT.
      - 3) Top Coat: ML Campbell, DesignRselect Furniture Pre-Catalyzed Clear Laquer.

**END OF SECTION**

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit F SECTION 115900 - EXHIBIT EQUIPMENT**

**PART 1 - GENERAL**

**1.01 GENERAL REQUIREMENTS**

- A. Work of this Section shall be governed by the Contract Documents. Provide materials, labor, equipment and services necessary to furnish, deliver and install all work of this Section as shown on the drawings, as specified herein and/or as required by job conditions.

**1.02 WORK INCLUDED**

- A. The Work of this section shall include all physical, mechanical and electromechanically interactive exhibits as scheduled and described in the Design Documents.

**1.03 RELATED SECTIONS**

- A. Section 064100 Architectural Wood Casework
- B. Section 274116.33 Visual System
- C. Section 274116.34 AV Control System

**1.04 QUALITY ASSURANCES**

- A. Technical design, engineering and prototyping of electromechanical exhibits is the Exhibit Contractor's responsibility.
  - 1. The Design Documents are intended to provide performance and aesthetic and functional specifications for the design, fabrication and installation of electromechanical exhibits of this Section. This Exhibit Contractor is responsible for the engineering and design of the components and materials as well as fabrication, installation, and performance of the fabrications.
  - 2. Exhibit Design Drawings shown are intended to establish the basic dimensions, finishes, motion, location, connections, and profiles of electromechanical exhibits. The Exhibit Contractor is responsible for the design and engineering of the fabrication within these parameters. The drawings are design requirements, unless specifically noted as completely engineered and designed on the drawings.
  - 3. Exhibit design control drawings do not cover some conditions or modifications, which may be required. The Exhibit Contractor, by accepting this Work, acknowledges this and agrees that the Exhibit Designer shall have final acceptance of all matters whether detailed or not for the exhibit design details.
- C. All work shall comply with all building and applicable life safety codes and is subject to the Owner's code consultant's review.
- F. All electromechanical exhibits exposed to direct visitor contact or having visitor interface shall be engineered to withstand normal wear and tear of such contact. Exhibit Contractor shall warrantee in writing all electromechanical exhibits free of defects and able to withstand visitor contact. The period of the warrantee shall be one year. Exhibits failing to function as specified during this period shall be repaired at the Exhibit Contractor's expense.
- G. Contractor shall provide written instructions on the maintenance of all electromechanical exhibits. Owner shall be responsible for providing proper maintenance under the terms of the warrantee.

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit F SECTION 115900 - EXHIBIT EQUIPMENT**

**1.05 SUBMITTALS**

- A. **SAMPLES & PRODUCT LITERATURE:** The samples and certificates in the following list are required to be submitted by the Exhibit Contractor to the Exhibit Designer for review. An omission of an item or items does not relieve the Contractor from this responsibility, and for compliance with the Contract Documents of which this is a part.
1. Three (3) each of all exposed hardware including but not limited to, flip book hinges, sliding magnifiers and lenses.
  2. Three (3) each of all electro-mechanical parts: push buttons, sensors and handsets.
  3. Product literature for specialty materials and manufactured hardware, supplies, electrical and mechanical components, and parts.
- B. **SHOP DRAWINGS**
1. Submit shop drawings for review in accordance with the Design Documents.
  2. Shop drawings shall indicate by plans, elevations, sections and details of the work of this Section, showing in detail large scale construction, methods of installation and attachment, type, size, spacing and location of welds, bolts or other anchorage devices and shall give all pertinent data as to thickness, dimensions and exposed finishes.
  3. Shop drawings shall indicate the work which is furnished by this Section and installed by other trades and the work of other trades which adjoin or butt the work of this Section.
  4. As requested by the Exhibit Designer provide additional details, sections and calculations to fully describe the work to be provided.
  5. Where items, anchorages, inserts are scheduled to be set into the concrete or built into the work by other Contractors for the installation of exhibits provide setting drawings, templates, instructions and directions for their installation. Coordinate delivery with other work to avoid delay of job progress.
- C. **PROTOTYPES**
1. Prior to final fabrication all interactives shall be prototyped and tested by the Exhibit Contractor and reviewed by Exhibit Designer and Owner. Build mockups and prototypes to comply with the following requirements, using materials indicated for the completed Work to demonstrate the following:
    - a. functionality
    - b. accessibility, ergonomics and ease of use
    - c. integration of hardware, products and systems
    - d. durability
  2. Fabrication schedule should be planned so that a minimum four weeks are allowed for prototyping testing and review prior to installation.
  3. Notify Exhibit Designer one month in advance of dates and times when prototype will be fabricated and ready for review.
  4. Prototypes shall demonstrate the aesthetic effects and functional qualities of materials and systems as well as the defined visitor experience, ergonomics and mechanical functioning of all interactives.

**PART 2 - PRODUCTS**

**2.01 FABRICATION - GENERAL REQUIREMENTS**

- A. Workmanship and finishes shall be first class in every respect and in accordance with the best practices. Employ skilled workers in the fabrication and erection of this work.



**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit F SECTION 115900 - EXHIBIT EQUIPMENT**

**2.02 SPECIALTY PRODUCTS**

- A. Refer to contract drawings AV Schedule for additional information
- B. Push Buttons: Eswitch model #PV8F2Y0SS-341 or approved equal
- C. Keyboard Emulator: X-Keys USB 3 Switch

**PART 3 - EXECUTION**

**3.01 TIME OF COMPLETION & FABRICATION SCHEDULE**

- A. The Exhibit Contactor shall prepare an estimated progress schedule for the Work. The schedule shall be related to the entire Project to the extent required by the Contract Documents. This schedule shall indicate the dates for the starting and completion of the various stages of fabrication and shipping and shall be revised as required by the conditions of the Work, subject to the Exhibit Designer's approval.

**3.02 EXAMINATION**

- A. Two in-shop prototyping reviews shall be planned after approval of materials to review shop drawings, development of electromechanical elements and progress on actual exhibit elements. In the first review the Exhibit Designer shall review the progress and provide evaluations of the prototypes and finalize the fabrication of the Work.
- B. A second shop review will constitute a verification that all issues have been adequately addressed and revisions implemented to the Satisfaction of the Exhibit Designer prior to delivering and installing the exhibit.

**3.03 MEASUREMENTS**

- A. Exhibit Contactor shall be responsible for verifying and guaranteeing all critical measurements, including those provided by Exhibit Designer, Owner, and others. All such dimensions shall be shown on the shop drawings.
- B. Exhibit Contactor shall be responsible for verifying dimensions that are required for proper coordination with other work, including but not limited to exhibits and Owner provided materials.

**3.04 SHOP FABRICATION**

- A. All exhibits included in the Scope of Work shall be shop fabricated, unless otherwise identified in bid proposal by Exhibit Contactor.

**3.05 COORDINATION BETWEEN TRADES**

- A. Exhibit Contactor shall coordinate work to ensure that the Interactive Exhibits will fit properly into the Interior provided by the General Contractor and the work of subcontractors and otherwise fit and are well-integrated with any surfaces they rest on or objects they are touching or holding.
- B. Failure of this Exhibit Contactor to make known his/her own needs and to determine the requirements of others shall not be cause for additional compensation to correct interferences, or for extra work which could have been avoided by proper coordination.

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit F SECTION 115900 - EXHIBIT EQUIPMENT**

**PART 4 INSTALLATION**

**4.01 SHIPPING AND HANDLING**

- A. Exhibit Contactor shall store, handle, and ship all Interactive Exhibits in such a way that they shall be perfect, free of dust and dirt and abrasions, and unmarred when they arrive and are unpacked. Exhibit Contactor shall securely and safely crate all Interactive Exhibits. Crates shall be marked with indications of opening sequence. Crates shall be constructed in such a way as to properly protect the completed Interactive Exhibits and any accessories from damage including breakage, scratches and indentations of any sort. Each element of the Work shall be adequately protected with bubble-wrap and foam padding, and supported or braced with framework, as required, up to the point of unpacking.
- B. All shipments shall be made with a professional shipping company and shall be fully insured. Owner shall be notified of shipment(s) in advance.

**4.02 INSTALLATION**

- A. Exhibit Contactor shall provide all transportation, lodging, labor, and materials necessary to install the Interactive Exhibits.
- B. Exhibit Contactor shall provide all mounting hardware required for complete installation. Exhibit Contactor shall indicate handling points and any vulnerable areas.

**4.03 DOCUMENTATION & MANUALS**

- A. Provide documentation binders for all mechanical parts replacements and maintenance procedures for the future upkeep of all interactives. The Exhibit Contractor is to conduct a staff training session for all interactives that will require regular maintenance.

**4.04 CLEANING AND PROTECTION**

- A. Protect installed work using adequate and suitable means during and after installation until acceptance.
- B. Repair, remove and/or replace surfaces and materials that become marred, scratched, bent or damaged in any way.
- C. Clean surfaces of grime and dirt using acceptable and recommended means and methods. Take care not to damage, mar or stain adjacent materials.

**END OF SECTION**

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit G SECTION 123661.16 - SOLID SURFACING COUNTERTOPS**

**PART 1 - GENERAL**

**1.01 SUMMARY**

- A. Section Includes:
  - 1. Solid surface panels material

**1.02 ACTION SUBMITTALS**

- A. Product Data: For all solid surface materials
- B. Shop Drawings: Show materials, finishes, edge profiles, methods of joining, and cutouts.
  - 1. Show locations and details of joints.
  - 2. Show direction of directional pattern, if any.
- C. Samples for Initial Selection: For each type of material exposed to view.

**1.03 CLOSEOUT SUBMITTALS**

- A. Maintenance Data: For solid surface material countertops to include in maintenance manuals. Include Product Data for care products used or recommended by Installer and names, addresses, and telephone numbers of local sources for products.

**1.04 QUALITY ASSURANCE**

- A. Qualification Data: Refer to Section 064100 Architectural Wood Casework
- B. Fabricator Qualifications: Shop that employs skilled workers who custom-fabricate solid surface material similar to that required for this Project, and whose products have a record of successful in-service performance.

**PART 2 - PRODUCTS**

**2.01 SOLID SURFACE PANEL MATERIALS**

- A. Solid Surface Material: Homogeneous-filled plastic resin complying with ICPA SS-1.
  - 1. Basis-of-Design Product: Subject to compliance with requirements, provide product indicated on Drawings or comparable product by one of the following:
    - a. E. I. du Pont de Nemours and Company: Corian
    - b. Or approved equal.
  - 2. Colors and Patterns: As selected by Designer from manufacturer's full range.
- B. Plywood: Exterior softwood plywood complying with DOC PS 1, Grade C-C Plugged, touch sanded.

**2.02 FABRICATION**

- A. Fabricate solid surface materials according to solid surface material manufacturer's written instructions and to the AWI/AWMAC/WI's "Architectural Woodwork Standards."
  - 1. Grade: Premium.
- B. Panels: 1/2 inch thick, solid surface material.

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit G SECTION 123661.16 - SOLID SURFACING COUNTERTOPS**

- C. Fabricate materials with shop-applied edges unless otherwise indicated. Comply with solid surface material manufacturer's written instructions for adhesives, sealers, fabrication, and finishing.
- D. Joints: Fabricate panels without joints.
- E. Cutouts and Holes:
  - 1. Make cutouts in shop using template or pattern. Form cutouts to smooth, even curves.
    - a. Provide vertical edges, slightly eased at juncture of cutout edges with top and bottom surfaces of countertop and projecting 3/16 inch into opening.
    - b. Provide 3/4-inch full bullnose edges projecting 3/8 inch into opening.

**2.03 INSTALLATION MATERIALS**

- A. Adhesive: Product recommended by solid surface material manufacturer.
  - 1. Adhesives shall have a VOC content of 70 g/L or less.
  - 2. Adhesive shall comply with the testing and product requirements of the California Department of Public Health's "Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions from Indoor Sources Using Environmental Chambers."

**PART 3 - EXECUTION**

**3.01 EXAMINATION**

- A. Examine substrates to receive solid surface material countertops and conditions under which panels will be installed, with Installer present, for compliance with requirements for installation tolerances and other conditions affecting performance of countertops.
- B. Proceed with installation only after unsatisfactory conditions have been corrected.

**3.02 INSTALLATION**

- A. Secure solid surface materials to sub tops with adhesive according to solid surface material manufacturer's written instructions. Align adjacent surfaces and form seams to comply with manufacturer's written instructions. Carefully dress joints smooth, remove surface scratches, and clean entire surface.
- B. Bond joints with adhesive and draw tight as solid surface materials are set. Mask areas of adjacent materials to joints to prevent adhesive smears.
  - 1. Clamp units to temporary bracing, supports, or each other to ensure that materials are properly aligned and joints are of specified width.

**END OF SECTION**

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit H SECTION 274116.33 - VISUAL SYSTEM**

**PART 1 - GENERAL**

**1.01 RELATED DOCUMENTS**

- A. Section 274116.34 AV Control System
- B. Section 115900 Exhibit Equipment

**1.02 SUMMARY**

- A. Section includes:
  - 1. Touch screens and LCD Displays
  - 2. Receivers

**1.03 DEFINITIONS OF TERMS**

- A. The term Contractor or Audiovisual Contractor as used herein refers to the party responsible for supplying all services and equipment covered herein and on related electrical drawings.
- B. The terms Owner, Consultant is used herein to refer to organizations, individuals and their representatives as typically defined.

**1.04 SUBMITTALS**

- A. Product Data: Manufacturer's product literature and installation instructions for each type of Visual device and any associated accessory required. Include data on physical characteristics, input/output connections, and signal bandwidth/resolution.
- B. Shop Drawings: Show location plans, rack layouts, panel layouts, device schedules, and single line diagrams. Include installation and mounting details.
- C. Samples for Verification Purposes: AV Panels and connectors, or any device that must be integrated within scenic/exhibit structures by an exhibit fabricator.
- D. Manuals:
  - 1. Within thirty days of the start-up, the Contractor shall furnish the following:
    - a. Four copies of block diagram of the system giving the essentials of the installation and their functional relations. Another copy of the diagram(s) shall be wall-mounted behind glass at the equipment rack location.
    - b. Four copies of a complete instruction, operation, and maintenance book, including all block and schematic diagrams, wiring diagrams, sizes, and manufacturer technical descriptions of components.
- E. Warranty.

**1.05 QUALITY ASSURANCE**

- A. The system shall be comprised of components that are of professional quality. Approved manufacturers shall be as specified herein.

**1.06 DELIVERY, STORAGE, AND HANDLING**

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit H SECTION 274116.33 - VISUAL SYSTEM**

- A. Deliver visual system equipment in protective wrapping and containers (as received from factory when possible), labeled with identification of manufacturer, part number, and project name.
- B. Store inside, in well-ventilated area, protected from weather, moisture, soiling, extreme temperatures, and humidity.

**1.07 COORDINATION**

- A. This section does NOT include the provision of any base-building infrastructures such as electrical supply power, raceways, conduits, HVAC, plumbing, or other related systems. Where the work of this section requires or comes in contact with these infrastructures, such work shall be coordinated with all related trades and sections.

**1.08 WARRANTY**

- A. All equipment specified herein shall be new, unused, "A-Stock" components provided by the original equipment manufacturer in new, sealed packaging and carry full manufacturer's warranty. Each product must be registered by the Contractor on behalf of the Owner. The Owner shall be provided with a copy of the product registration information and warranty statement(s) as part of the as-built documents, Manufacturer's warranty. Each product must be registered by the Contractor on behalf of the Owner. The Owner shall be provided with a copy of the product registration information and warranty statement(s) as part of the as-built documents.
- B. All equipment must be installed, adjusted, commissioned and serviced by installers authorized by the equipment manufacturer(s) to perform those duties. If said manufacturer does not authorize the Exhibit Contractor, it is the Contractor's sole responsibility to make the appropriate arrangements and bear all cost in order to provide authorized installers.
- C. Provide a warranty on the entire system and on the individual pieces of equipment. The system warranty shall be for one year from the date of issuance of Final Acceptance by the Owner. This warranty shall obligate the Exhibit Contractor to provide all equipment, material, and labor as well as travel and related expenses at no charge to the Owner during the warranty period in the event of system or equipment malfunction.
- D. This warranty shall be in addition to and not a limitation of other rights the Owner may have against the Contractor under the Contract Documents

**PART 2 - PRODUCTS**

**2.01 SPECIFIED EQUIPMENT:**

- A. Where Specification Documents refer to any items, materials, products and equipment by means of one or more manufacturer's trade name, catalog reference or similar means of identification of manufacturer, such reference establishes standard of required quality, appearance, dimension or function. It is not an intention of this specification to limit or restrict Exhibit Contractors to those containing products by specific manufacturers, but rather to set a baseline of operational performance and functionality that all installed equipment must meet or exceed. Refer to AV Schedule for additional information:
- B. For all specified equipment, refer to contract drawings AV Schedule.

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

**Exhibit H SECTION 274116.33 - VISUAL SYSTEM**

**PART 3 - EXECUTION**

**3.01 PREPARATION**

- A. Coordinate all low-voltage and communication signals with other electrical, communications, theatrical and any other related trades. Verify the design for all cable requirements for the electrical contractor to install all required infrastructures.
- B. Provide all project management, engineering, installation and maintenance services necessary to provide complete, functional AV systems including equipment, procurement, fabrication, system testing, commissioning, training, and warranty services.
- C. All field cables, conduits, wire ways, back/junction boxes or cable trays shall be by the Electrical Contractor.
- D. Before connecting any equipment to electrical power outlets, measure and verify all voltages and polarities (120 VAC, main screen projector 220- 240VAC). All mains voltage terminations shall be performed by the Electrical Contractor.

**3.02 INSTALLATION**

- A. Provide for the safe shipping, transport, and delivery of the complete AV system as designed to the job site.
- B. Provide all cable engineering specifications, documentation, terminations, connectors, terminal blocks, and similar devices required for this work. Provide materials, ladders/lifts, and labor to complete the AV installation per the specified criteria and best professional practice.
- C. Install all terminations to and from the equipment of this section.
- D. Install equipment securely, complete with bolts, nuts, washers, clips, fittings, supports, and other items required for proper installation and operation.
- E. Following installation of all audiovisual systems to the level of substantial completion, provide system commissioning, adjustments, programming and acceptance testing of all systems of this section.
- F. Properly instruct the Owner and its agents and operating personnel in correct operation, maintenance and troubleshooting of the system. Prior, a draft of the Operations Handbook shall be delivered to the Owner for use in training.
- G. A principal project manager/engineer must be on site and available for service and operations for at least the first four (4) operations of the system, and at least one technician who has been on-site and participatory in the installation to be on site and available for work for no less than three (3) publicly operated days; or until all systems are determined to be fully functional by the Owner or its agents.

**3.03 CLEAN-UP**

- A. At completion of installation, clean soiled surfaces in accordance with manufacturer's instructions. Protect units from damage until final acceptance. Remove all waste and excess materials, tools and equipment.

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental  
Education and Resiliency Center**

**Exhibit H SECTION 274116.33 - VISUAL SYSTEM**

**3.04 CONSTRUCTION WASTE MANAGEMENT**

- A. A. Separate and recycle waste materials to the maximum extent possible.

**END OF SECTION**



**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

Exhibit I SECTION 274116.34 - AV CONTROL SYSTEMS

PART 1 - GENERAL

1.01 RELATED DOCUMENTS

- A. Section 274116.33 Visual System
- B. Section 115900 Exhibit Equipment

1.02 DESCRIPTION

- A. This Section describes the requirements for AV Control Systems to include, but not necessarily be limited to the following:
  - 1. Control Processors/User interfaces
  - 2. AV Equipment Racks and Enclosures
  - 3. Specialty AV connector panels/boxes
  - 4. Computer Equipment

1.03 SUBMITTALS

- A. Product Data: Manufacturer's product literature and installation instructions for each type of AV Control device and any associated accessory required. Include data on physical characteristics, input/output connections, and signal bandwidth/resolution.
- B. Shop Drawings: Show location plans, rack layouts, panel layouts, device schedules, and single line diagrams. Include installation and mounting details.
- C. Samples for Verification Purposes: AV Panels and connectors, or any device that must be integrated within scenic/exhibit structures by an exhibit fabricator.
- D. Manuals:
  - 1. Within thirty days of the start up, the Contractor shall furnish the following:
    - a. Four copies of block diagram of the system giving the essentials of the installation and their functional relations. Another copy of the diagram(s) shall be wall-mounted behind glass at the equipment rack location.
    - b. Four copies of a complete instruction, operation, and maintenance book, including all block and schematic diagrams, wiring diagrams, sizes, and manufacturer technical descriptions of components.
- E. Warranty.

1.04 QUALITY ASSURANCE

- A. The system shall be comprised of components that are of professional quality. Approved manufacturers shall be as specified herein.
- C. The Contractor shall have all required manufacturer's certificates where required (i.e. Digital Media Certified Engineering DMC-E and Design DMC-D)
- D. The Contractor shall have on staff, individuals that have received ANSI Certification through the ISO/IEC 17024 General Requirements as a "Certified Technical Specialist"
- E. The Contractor shall have on staff, individuals that have been trained on OSHA Safety regulations receiving OSHA-30 Certification

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

Exhibit I SECTION 274116.34 - AV CONTROL SYSTEMS

1.05 Reserved

1.06 DELIVERY, STORAGE, AND HANDLING

- A. Deliver visual system equipment in protective wrapping and containers (as received from factory when possible), labeled with identification of manufacturer, part number, and project name.
- B. Store inside, in well-ventilated area, protected from weather, moisture, soiling, extreme temperatures, and humidity.

1.07 COORDINATION

- A. This section does NOT include the provision of any base-building infrastructures such as electrical supply power, raceways, conduits, HVAC, plumbing, or other related systems. Where the work of this section requires or comes in contact with these infrastructures, such work shall be coordinated with all related trades and sections.

1.08 WARRANTY

- A. All equipment specified herein shall be new, unused, "A-Stock" components provided by the original equipment manufacturer in new, sealed packaging and carry full manufacturer's warranty. Each product must be registered by the Contractor on behalf of the Owner. The Owner shall be provided with a copy of the product registration information and warranty statement(s) as part of the as-built documents.
- B. All equipment must be installed, adjusted, commissioned and serviced by installers authorized by the equipment manufacturer(s) to perform those duties. If said manufacturer does not authorize the Exhibit Contractor, it is the Contractor's sole responsibility to make the appropriate arrangements and bear all cost in order to provide authorized installers.
- C. Provide a warranty on the entire system and on the individual pieces of equipment. The system warranty shall be for one year from the date of issuance of Final Acceptance by the Owner. This warranty shall obligate the Exhibit Contractor to provide all equipment, material, and labor as well as travel and related expenses at no charge to the Owner during the warranty period in the event of system or equipment malfunction.
- D. This warranty shall be in addition to and not a limitation of other rights the Owner may have against the Contractor under the Contract Documents

PART 2 - PRODUCTS

2.01 SPECIFIED EQUIPMENT:

- A. Where Specification Documents refer to any items, materials, products and equipment by means of one or more manufacturer's trade name, catalog reference or similar means of identification of manufacturer, such reference establishes standard of required quality, appearance, dimension or function. It is not an intention of this specification to limit or restrict Exhibit Contractors to those containing products by specific manufacturers, but rather to set a baseline of operational performance and functionality that all installed equipment must meet or exceed.
- B. Rack: By others.

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental Education and Resiliency Center**

Exhibit I SECTION 274116.34 - AV CONTROL SYSTEMS

- C. For all specified equipment, refer to contract drawings AV Schedule.

**PART 3 - EXECUTION**

**3.01 PREPARATION**

- A. Coordinate all low-voltage and communication signals with other electrical, communications, theatrical and any other related trades. Verify the design for all cable requirements for the electrical contractor to install all required infrastructures.
- B. Provide all project management, engineering, installation and maintenance services necessary to provide complete, functional AV systems including equipment, procurement, fabrication, system testing, commissioning, training, and warranty services.
- C. All field cables, conduits, wire ways, back/junction boxes, cable trays or patch panels shall be by the Electrical Contractor.
- D. Before connecting any equipment to electrical power outlets, measure and verify all voltages and polarities (120 VAC, main screen projector 220-240VAC). All mains voltage terminations shall be performed by the Electrical Contractor.

**3.02 INSTALLATION**

- A. Provide for the safe shipping, transport, and delivery of the complete AV system as designed to the job site.
- B. Provide all cable engineering specifications, documentation, terminations, connectors, terminal blocks, and similar devices required for this work. Provide materials, ladders/lifts, and labor to complete the AV installation per the specified criteria and best professional practice.
- C. Install all terminations to and from the equipment of this section. Following installation of all audiovisual systems to the level of substantial completion, provide system commissioning, adjustments, programming and acceptance testing of all systems of this section.
- D. Properly instruct the Owner and its agents and operating personnel in correct operation, maintenance and troubleshooting of the system. Prior, a draft of the Operations Handbook shall be delivered to the Owner for use in training.
- E. A principal project manager/engineer must be on site and available for service and operations for at least the first four (4) operations of the system, and at least one technician who has been on-site and participatory in the installation to be on site and available for work for no less than three (3) publically operated days; or until all systems are determined to be fully functional by the Owner or its agents.

**3.03 CLEAN-UP**

- A. At completion of installation, clean soiled surfaces in accordance with manufacturer's instructions. Protect units from damage until final acceptance. Remove all waste and excess materials, tools and equipment.

**C003502 Exhibit Fabrication and Installation at Hempstead Lake State Park Environmental  
Education and Resiliency Center**

Exhibit I SECTION 274116.34 - AV CONTROL SYSTEMS

3.04 CONSTRUCTION WASTE MANAGEMENT

- A. Separate and recycle waste materials to the maximum extent possible.

**END OF SECTION**

## **Exhibit J - HLSP EXHIBIT Drawings**

# **Attached as a Separate File**

## **Available at:**

<https://parks.ny.gov/business/procurement-opportunities.aspx>