

**NIAGARA FALLS WATER BOARD**  
**REQUEST FOR SEALED BIDS**  
**NFWB BID #W2022-05**  
**GRANULAR ACTIVATED CARBON SUPPLY AND REMOVAL**

Bids on items as specified herein shall be accepted by the City of Niagara Falls Purchasing Division, 745 Main Street, Room 214, Niagara Falls, New York 14301 on behalf of the Niagara Falls Water Board ("Board") until **11:00 A.M. on December 22, 2022** and opened at that time.

All bids are subject to delivery and must comply with the delivery specifications contained herein.

If a bid is submitted on an article intended as a substitute for a grade or brand specified, the vendor shall state the grade or brand of the substitution, otherwise it will be assumed that the bid is based upon the grade or brand specified.

The Board reserves the right to accept this bid by items, or as a whole, or to reject any and all bids or waive informalities.

Bid prices are to be shown NET. Cash discounts, if any, are to be clearly stated.

Prices must be filled in mechanically or in ink on this form and placed in a **SEALED ENVELOPE CLEARLY MARKED WITH THE BID NUMBER AND THE NAME OF THE VENDOR SUBMITTING THE BID.**

Any and all bids and contracts made or awarded by the Board, or any department, agency or official thereof for work or services performed or to be performed, or goods purchased or sold or to be purchased or sold are made subject to the provisions of Chapter 861 of the Laws of New York, 1953, as amended by Chapter 751 of the Laws of New York, and as now contained or may hereafter be amended. The provisions of the New York State General Municipal Law, including Sections 103a and 103b, are applicable to this bid.

**VENDOR'S ATTENTION IS REQUESTED REGARDING THE FOLLOWING CONDITIONS AND REGULATIONS. BIDS NOT IN COMPLIANCE WITH THE CONDITIONS AND REGULATIONS CONTAINED HEREIN WILL NOT BE CONSIDERED**

**NON-COLLUSIVE BIDDING CERTIFICATION**  
**(PURSUANT TO CHAPTER 751 OF THE LAWS OF NEW YORK, 1965)**

**By submission of this bid, the vendor certifies that:**

- 1) This bid has been independently arrived at, without collusion with any other bidder or with any competitor or potential competitor;
- 2) This bid has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids or proposals for this project, to any other vendor, competitor or potential competitor;
- 3) No attempt has been or will be made to induce any other person, partnership or corporation to submit or not to submit a bid;
- 4) The person signing this bid certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties of perjury, affirms the truth thereof, such penalties being applicable to the vendor as well as to the person signing on its behalf;
- 5) That attached hereto (if a corporate vendor) is a certified copy or resolution authorizing the execution of this certificate by the signing party on behalf of the corporate bidder.

**Anti-Discriminatory Statement:**

All programs, policies, procedures, procurement opportunities and activities conducted by and through this organization, its employees, contractors and subcontractors shall be conducted without regard to age, ancestry, color, creed, citizenship (where applicable), gender, genetic information/testing, marital status, mental or physical disability, political affiliation, belief or opinion (where applicable), national origin, race, religious affiliation, belief or opinion, sex (except where age, sex, or disability involves a bonafide occupational qualification), sexual orientation (where applicable) or status as a participant in Workforce Investment Act (WIA) funded programs (where applicable). The Board encourages participation of women and minority owned business enterprises in all its procurement opportunities and has a goal of increasing participation of MWBE organizations in its procurement activities.

**VENDOR NAME:**

---

**VENDOR ADDRESS:**

---

---

---

CONTACT PERSON REGARDING BID: 

---

CONTACT PERSON'S TELEPHONE NUMBER: 

---

CONTACT PERSON'S EMAIL ADDRESS: 

---

AUTHORIZED SIGNATURE: 

---

NAME AND TITLE: 

---

DATE: 

---

---

---

**MAIL BIDS TO:**

NIAGARA FALLS WATER BOARD  
C/O PURCHASING DIVISION, ROOM 214  
745 MAIN STREET  
NIAGARA FALLS, NEW YORK 14301

**DELIVER BIDS TO:**

NIAGARA FALLS WATER BOARD  
C/O PURCHASING DIVISION, ROOM 214  
745 MAIN STREET  
NIAGARA FALLS, NEW YORK 14301

**BIDS SUBMITTED BY FACSIMILE OR ELECTRONIC MEANS ARE UNACCEPTABLE**

**SPECIFICATIONS AND TERMS (Page 1 of 5)**

1. Bids will be received by the Purchasing Division on behalf of the Board at 745 Main Street, Niagara Falls, New York 14301, Room 214 for the supply and removal of various types/grades of granular activated carbon ("GAC") as set forth and described herein.
2. The term of this contract/agreement shall be from January 1, 2023 through December 31, 2023. If mutually agreeable to the successful vendor and Board, this contract/agreement may be extended one additional year, through December 31, 2024, under the same terms, conditions and specifications. All pricing must remain firm for the entire aforementioned term(s).
3. Following the opening of the valid submissions, the Board will conduct its due diligence. Once the due diligence investigation is completed, the Board shall either reject all bids or the lowest responsible bid(s) will be submitted to the members of the Board for possible award via majority vote.
4. The Board reserves the right to award multiple vendors depending upon the low bid price for each grade of GAC, and the low bid price for GAC removal.
5. Upon award of this offering, the successful vendor(s) must also submit to the Purchasing Division certificate(s) of insurance which meet all of the requirements set forth in the attached Exhibit C. Said certificate(s) of insurance must be received by the Purchasing Division no later than ten (10) business days following the date of notification of award. Failure to do so may result in the award being negated.
6. All materials are to conform to the most recent appropriate industry standards and be of the manufacturer's most recent improved design.
7. Deliveries are to be made to Niagara Falls Water Board Wastewater Treatment Plant, 1200 Buffalo Avenue, Niagara Falls, New York 14303 unless another destination within the City of Niagara Falls is specified at the time of order.
8. Weigh bills must be provided for all deliveries before an invoice will be paid.
9. Deliveries of GAC and/or removal of spent GAC must be made within ten (10) calendar days after receipt of an order, and must occur between Monday and Friday during normal business hours unless otherwise specified. A current MSDS must accompany each shipment of GAC.
10. Vendors shall quote a unit price per ton for each item as set forth on the Price Sheet, and said unit price shall be F.O.B. destination, freight prepaid for the supply of GAC. For the removal of spent GAC, the unit price shall be inclusive of all retrieval and disposal costs, including transportation, mileage and fuel costs.
11. Vendors must submit the specifications for any product being offered, as well as a sealed sample of at least ten (10) pounds no later than the deadline set forth above for the bids. The specifications and samples should be sent directly to the Wastewater Treatment Plant to the attention of Dennis Kirkland. The sample will undergo testing by the Board's laboratory to determine specification conformance.

## **SPECIFICATIONS AND TERMS (Page 2 of 5)**

12. Where indicated, the quantities listed on the price sheet are estimated quantities to be ordered. Items will be ordered as needed, and the Board reserves the right to order more or less than the quantities listed. No guarantees are made as to minimum or maximum quantities the Board will require.
13. All goods and services provided under this offering shall be to the satisfaction of the Board, who reserves the right to confirm quality, acceptability and fitness of the goods and services which are to be paid for hereunder and who shall decide any questions which may arise as to the fulfillment of this offering. The determination of the Board shall be final and conclusive.
14. Bids shall be accompanied by a list of no less than three (3) references, comprised of water and/or wastewater treatment facilities currently using vendor's submitted product(s). The facilities may be municipal or industrial in nature. References shall be provided on the attached form, which must be completed in full.

### **GAC Quality**

15. All virgin GAC supplied under this offering shall be manufactured from select grades of bituminous coals, crushed and re-agglomerated to produce the desired performance characteristics. The GAC shall be supplied from a single factory to ensure consistent quality and shall contain no soluble inorganic material or organic substances capable of producing deleterious effects.
16. Information on the production facility (name, location, years of operation, annual production and ISO certification information) supplying GAC shall be provided at the time of bidding by completing the PRODUCTION FACILITY REFERENCE FORM at the end of this section. The facility shall have a minimum of ten (10) years of experience in supplying GAC to treatment facilities.
17. The GAC shall also meet or exceed the following standards:

Carbon Quality Parameter	Standard Make-up Grade	Inventory Renewal Grade	Recycled Reactivated Grade
Iodine Number (mg/g, min)	900	920	750
Apparent Density (dry, max)	0.55	0.63	0.53
Percent Ash (max)	11%	11%	----
Percent Moisture (by wt., max)	2%	2%	2%
Abrasion Number (min)	75	80	70
Uniformity Coefficient (max)	2.1	1.5	----
Sieve Analysis:			
Smaller than 30# (max)	4%	----	4%
Smaller than 20# (max)	----	5%	----
Larger than 8# (max)	15%	15%	15%

18. The Board intends to purchase varying quantities of each carbon grade based upon bid prices, quality and treatment facility demand.
19. The successful vendor(s) shall submit an analysis for each of the parameters set forth in Paragraph 17 with each delivery. This analysis shall be performed by a laboratory certified to do such analysis and this testing shall be completed at no additional cost to the Board.

### **SPECIFICATIONS AND TERMS (Page 3 of 5)**

20. Vendor(s) shall not interfere with the Board, or a designated representative of the Board, in collecting any additional GAC samples for supplemental analysis.
21. Measurement and testing procedures referenced in these specifications shall be in accordance with the latest edition of the following references or sources:
  - A. Standard Methods for the Examination of Water and Wastewater
  - B. ANSI/NSF Standard 61
  - C. AWWA Standard B604
  - D. American Society for Testing and Materials Volume 15.01
22. The procedure to verify the iodine number of candidate GACs (Laboratory Procedure WWPC-9) is set forth below at Pages 7 through 10. This procedure will be utilized to verify the iodine number, within a three percent (3%) margin of error.

#### **GAC Delivery and Removal**

23. The frequency of deliveries will depend on the quantity delivered per truckload and the rate of replacement/transport. Typically, carbon is replaced during the spring, summer or fall. The relative quantities of carbon grades are subject to change depending upon the needs of the facility. Tank trucks shall be used to transport GAC to the treatment facility. The contractor is responsible for the proper preparation and offloading of carbon into the Board's storage tank(s). Damaged or floating carbon shall be removed and replaced at the vendor's expense.
24. In order to accept replacement carbon, spent carbon currently in use at the facility must be removed. This carbon has been online for a lengthy period of time. Disposition is left to the vendor's discretion, as to whether this carbon is salvageable for reuse elsewhere by regeneration, or if it must be disposed of by landfilling. Landfilling is to be accomplished in accordance with all applicable laws, rules and regulations. Transporting trucks shall be equipped with a bottom drain valve to allow carbon motive water to drain from the trailer as it is being filled.

#### **Use of Facilities and Utilities**

25. The vendor shall be responsible for supplying eductors, booster pumps, hose and any other equipment or materials necessary to off-load carbon into the Board's storage tanks or carbon filter beds as well as accept spent carbon from the facility into hauling vehicles. The Board will allow reasonable access to plant water hydrant connections and will operate in-plant carbon transfer systems. The Board will also allow reasonable access to plant electricity. All labor, equipment and appurtenances necessary for the vendor to gain access to site utilities shall be provided by said vendor at no additional expense to the Board. The vendor, in gaining access to any site utility, shall not adversely affect any process or other activity required by the Board to perform any of the Board's routine or planned activities. The Board will assist in coordinating GAC loading/unloading with grit and screenings removal in the same vicinity.

## **SPECIFICATIONS AND TERMS (Page 4 of 5)**

### **Measurement and Payment**

26. The vendor shall include in his unit price the cost of all labor, materials, equipment and appurtenances to perform the work specified herein, including the costs of transporting and unloading fresh carbon at the Board's facilities. The unit price for spent carbon removal shall include the cost of all labor, materials, equipment and appurtenances to perform the work specified herein, including the removal, transportation and reuse/disposal of carbon from the Board's facilities. The vendor shall also be responsible for and bear all costs associated with the removal of unacceptable (off spec) GAC from the Board's facilities.
27. Payments for GAC delivered and accepted shall be made monthly. Measurement of all carbon quantities for payment shall be on a net weight, per pound, dry-weight basis. There shall be a weight ticket of empty truck and trailer (tare weight) and a weight ticket of the truck and trailer loaded with GAC. Net weight shall be the difference between the tare weight and loaded weight. The net weight shall be corrected for moisture content as determined by representative sampling of each truck load and subsequent analysis for moisture as given by AWWA Standard B604. This calculated dry weight of GAC will be the basis for payment. All billings shall be priced and rounded to the nearest pound of carbon.
28. The vendor shall be responsible for supplying all certified truck load weights and for the laboratory testing required to determine dry weights of GAC. Each shipment shall be sampled by the vendor and divided into three (3) equal portions. One portion shall be analyzed by the vendor, one portion shall be submitted to the Board, and the third portion shall be retained by the vendor for submission to a referee laboratory, if required.
29. The Board reserves the right, at the Board's expense, to require any or all carbon shipments to be independently weighed in and out of a local certified truck weighing facility. The Board also reserves the right to sample and test each shipment for carbon quality parameters.

### **Alternate Carbon Purchase**

30. The Board reserves the right to secure GAC from other public utilities or agencies as circumstances permit. GAC may also be obtained in connection with carbon filter rehabilitation projects.

### **Additional Terms and Contact Information**

31. Notice of dissatisfaction with a shipment of material, because of failure to meet the requirements of this specification, must be in the hands of the vendor within ten (10) days after receipt of the shipment at the point of destination. If the material does not meet the requirements of these standards, the vendor may remove the material from the premises of the purchaser or a price adjustment may be agreed upon by the vendor and the purchaser.
32. Failure to supply any requested information, or to submit prices for all items may cause a submission to be considered informal or result in a vendor being declared non-responsible.
33. If a vendor is not making a submission, it is important that the vendor answer this offering by completing and mailing back the "Non-Submission Certificate" in this package. Failure to respond to two successive offerings may result in a vendor being removed from the mailing list.

**SPECIFICATIONS AND TERMS (Page 5 of 5)**

34. Vendors shall note there are three (3) appendices attached to these specifications. Vendors must complete all of the documents contained in said exhibits and also provide all materials which meet the requirements set forth therein, including but not limited to, a certificate of insurance meeting the Niagara Falls Water Board standard insurance requirements, which must be provided by the successful bidder(s) after award of the bid.
35. For questions regarding specific items or products on this bid, please contact Chief Operator Dennis Kirkland at (716) 425-9300. For questions regarding these specifications, please contact Purchasing Agent Leeann Huey at 716-286-4372.

**PRODUCTION FACILITY REFERENCE FORM**

Name of Facility \_\_\_\_\_

Address of Facility \_\_\_\_\_

Type of Facility (Municipal or Industrial) \_\_\_\_\_

Contact Person's Name \_\_\_\_\_

Contact Person's Title \_\_\_\_\_

Contact Person's Telephone Number \_\_\_\_\_

Contact Person's Email Address (if available) \_\_\_\_\_

Product(s) Currently Being Supplied \_\_\_\_\_

Date of Most Recent Delivery \_\_\_\_\_

Quantity of Most Recent Delivery \_\_\_\_\_



**LABORATORY PROCEDURE NO.: WWPC-9**  
**(PAGE 1 of 4)**

NIAGARA FALLS WASTEWATER FACILITIES

Laboratory Procedure No.: WWPC-9

Title: Granular Activated Carbon

9.7 IODINE NUMBER

Discussion: The iodine number is defined as the milligrams of iodine absorbed by one gram of carbon when the iodine concentration of the residual filtrate is 0.02 normal. This test provides a measure of the absorptive capacity of the carbon.

Sample Preparation: Grind a sample of dry carbon to .324 mesh using a SPEX 8000 mixer/mill or similar. Three (3) 0.52 inch steel projection balls (25g) are used to promote grinding. Place the pulverized sample in a glass Petri dish and write the sample identification on the dish.

REAGENTS:

1. Hydrochloric Acid, 5% wt.: Add 70 mg of reagent grade concentrated hydrochloric acid to 550 ml of distilled water.
2. Sodium Thiosulfate, 0.1 N: Dilute the “certified” commercial concentrate in accordance with instructions on the ampule.
3. Iodine Solution, 0.1N: Weight 12,700g of resublimed iodine crystals and 19,100g of potassium iodide (KI) into a beaker.  
NOTE: The potassium iodide to iodine ratio must be 1.5 to 1.  
Add small increments of distilled water while stirring until the volume is 50 to 60 ml. Allow solution to stand a minimum of 4 hours to ensure crystals are thoroughly dissolved. Occasional stirring will aid in dissolution. Quantitatively transfer to a one liter volumetric flask and fill to the mark with distilled water. Mix thoroughly. Standardize the solution using a “certified” 0.1000N sodium thiosulfate solution.
4. Starch Indicator Solution: Transfer 2.5 grams of soluble starch to mortar and add a little cold water. Grind to a thin paste and pour into one liter of boiled distilled water. Stir and then allow to settle. Use the clear supernate.

**LABORATORY PROCEDURE NO.: WWPC-9**  
**(PAGE 2 of 4)**

PROCEDURE:

1. Mix the pulverized carbon sample in the Petri dish using a small spatula. Using the analytical balance, weigh out an amount of carbon as indicated below:

Virgin C: 1.000 – 1.100 g

Regenerated C: 1.500 – 1.700 g

Spent C: 2.000 – 2.500 g

Record the total weight of carbon and weighing paper, to the nearest 0.1 mg, in the notebook. Transfer the carbon to a 250 ml Erlenmeyer flask. Reweigh the paper and subtract the tare weight from the total weight to obtain the weight of the sample used.

2. Add a few glass boiling beads to the flask. Add 10 ml of 5% HCl (1) and place the flask on a hot plate. Bring the contents to a boil and allow to boil for 30 seconds.
3. Remove the flask from the hotplate and cool to room temperature. This can be accelerated by placing the flask in a cold water bath.
4. Using a volumetric pipet, add 100 ml of 0.1 N iodine (3) to the flask. Immediately stopper the flask and shake vigorously for 30 seconds. Remove the stopper and filter by gravity through Whatman 2V filter paper. Discard the first 25 ml of filtrate and collect the remainder in a clean beaker. Do not wash the residue on the filter paper.
5. Mix the filtrate in the beaker with a stirring rod and pipet 50.0 ml of the filtrate into a 250 ml Erlenmeyer flask. Titrate with 0.1 N Sodium Thiosulfate (2) until the yellow color has almost disappeared. Add about 1 ml of starch indicator (4) and continue titration until the blue color just disappears. Record the volume of Sodium Thiosulfate Solution used.
6. Calculate the residual filtrate normality (C) using the formula:

$$C = \frac{N2 \times E}{50}$$

where E = ml of sodium thiosulfate used.

N2 = normality of standard thiosulfate solution

If it is not within the range of 0.008 – 0.035, repeat the test using a different weight of sample. A residual filtrate normally greater than 0.035 indicates the carbon is not removing a sufficient amount of iodine. In this case, use a greater weight of sample. Obtain correction factor (d) from Table B-1 based on calculation of residual filtrate normality (C).

**LABORATORY PROCEDURE NO.: WWPC-9**  
**(PAGE 3 of 4)**

7. CALCULATIONS:

N1 = Normality of standard iodine solution

N2 = Normality of standard sodium thiosulfate solution

A = N1 x 12693

B = N2 x 126.93

V = Volume of Na<sub>2</sub>S<sub>2</sub>O<sub>3</sub> used for sample

C = Filtrate normality =  $\frac{V \times N2}{50.0}$

$\frac{x}{m}$  =  $\frac{A - (2.2 B \times V)}{\text{Sple. wt. (grams)}}$

D = Correction factor (from graph)

Iodine Number =  $\frac{x}{m} \times D$  (mg/g)

8. REFERENCES:

US EPA Process Design Manual for Carbon Absorption  
EPA 625/1-71-002a     October 1973

Calgon Carbon Corporation: Determination of the Iodine Number of Activated Carbon  
TM-4

ASTMD – 4607 Volume 15.01, 1989

**LABORATORY PROCEDURE NO.: WWPC-9**  
**(PAGE 4 of 4)**

TABLE B-1  
 IODINE CORRECTION FACTOR (D)

RESIDUAL FILTRATE NORMALITY ( C )	0.0000	0.0001	0.0002	0.0003	0.0004	0.0005	0.0006	0.0007	0.0008	0.0009
0.0080	1.1625	1.1613	1.1600	1.1575	1.1550	1.1538	1.1513	1.1500	1.1475	1.1463
0.0090	1.1438	1.1425	1.1400	1.1375	1.1363	1.1350	1.1325	1.1300	1.1288	1.1275
0.0100	1.1250	1.1238	1.1225	1.1213	1.1200	1.1175	1.1163	1.1150	1.1138	1.1113
0.0110	1.1100	1.1088	1.1075	1.1063	1.1038	1.1025	1.1000	1.0988	1.0975	1.0963
0.0120	1.0950	1.0938	1.0925	1.0900	1.0888	1.0875	1.0863	1.0850	1.0838	1.0825
0.0130	1.0800	1.0788	1.0775	1.0763	1.0750	1.0738	1.0725	1.0713	1.0700	1.0688
0.0140	1.0675	1.0663	1.0650	1.0625	1.0613	1.0600	1.0588	1.0575	1.0563	1.0550
0.0150	1.0538	1.0525	1.0513	1.0500	1.0488	1.0475	1.0463	1.0450	1.0438	1.0425
0.0160	1.0413	1.0400	1.0388	1.0375	1.0375	1.0363	1.0350	1.0333	1.0325	1.0313
0.0170	1.0300	1.0288	1.0275	1.0263	1.0250	1.0245	1.0238	1.0225	1.0208	1.0200
0.0180	1.0200	1.0188	1.0175	1.0163	1.0150	1.0144	1.0138	1.0125	1.0125	1.0113
0.0190	1.0100	1.0088	1.0075	1.0075	1.0063	1.0050	1.0050	1.0038	1.0025	1.0025
0.0200	1.0013	1.0000	1.0000	0.9988	0.9975	0.9975	0.9963	0.9950	0.9950	0.9938
0.0210	0.9938	0.9925	0.9925	0.9913	0.9900	0.9900	0.9888	0.9875	0.9875	0.9863
0.0220	0.9863	0.9850	0.9850	0.9838	0.9825	0.9825	0.9813	0.9813	0.9800	0.9788
0.0230	0.9788	0.9775	0.9775	0.9763	0.9763	0.9750	0.9750	0.9738	0.9738	0.9725
0.0240	0.9725	0.9708	0.9700	0.9700	0.9688	0.9688	0.9675	0.9675	0.9663	0.9663
0.0250	0.9650	0.9650	0.9638	0.9638	0.9625	0.9625	0.9613	0.9613	0.9606	0.9600
0.0260	0.9600	0.9588	0.9588	0.9575	0.9575	0.9563	0.9563	0.9550	0.9550	0.9538
0.0270	0.9538	0.9525	0.9525	0.9519	0.9513	0.9513	0.9506	0.9500	0.9500	0.9488
0.0280	0.9488	0.9475	0.9475	0.9463	0.9463	0.9463	0.9450	0.9450	0.9438	0.9438
0.0290	0.9425	0.9425	0.9425	0.9413	0.9413	0.9400	0.9400	0.9394	0.9388	0.9388
0.0300	0.9375	0.9375	0.9375	0.9363	0.9363	0.9363	0.9363	0.9350	0.9350	0.9346
0.0310	0.9333	0.9333	0.9325	0.9325	0.9325	0.9319	0.9313	0.9313	0.9300	0.9300
0.0320	0.9300	0.9294	0.9288	0.9288	0.9280	0.9275	0.9275	0.9275	0.9270	0.9270
0.0330	0.9263	0.9263	0.9257	0.9250	0.9250					

**Price Sheet**

<b>Item Number</b>	<b>Quantity (tons)</b>	<b>Description</b>	<b>Unit Price Per Ton</b>
1	40	More or less, granular activated carbon (GAC) Standard make-up grade, per the attached specifications	
2	20	More or less, granular activated carbon (GAC) Inventory renewal grade, per the attached specifications	
3	260	More or less, granular activated carbon (GAC) Recycled, reactivated grade, per the attached specifications	
4	300	More or less, removal and disposal/reuse of spent granular activated carbon (GAC) currently in use at the Board's treatment facility, per the attached specifications	

**NOTES:**

VENDOR NAME: \_\_\_\_\_

# **APPENDIX A**

**NFWB STANDARD TERMS,  
CONDITIONS AND REQUIREMENTS**

## **APPENDIX A**

### **NFWB SEALED BID CONTRACT STANDARD TERMS, CONDITIONS, AND REQUIREMENTS**

The parties to the attached contract or agreement (hereinafter “contract” or “agreement”) 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 to the contract other than the Niagara Falls Water Board). Any party submitting a bid in response to the attached solicitation also agrees to comply with these terms, conditions, and requirements.

#### **A. Statement of Qualifications**

OMITTED FOR THIS PROCUREMENT.

#### **B. Personnel**

OMITTED FOR THIS PROCUREMENT.

#### **C. Coordination and Cooperation with Third Parties**

OMITTED FOR THIS PROCUREMENT.

#### **D. Safety and Site-Specific Safety Plan**

OMITTED FOR THIS PROCUREMENT.

#### **E. Insurance**

Contractor shall be required to procure and maintain at its own expense and without expense to the Niagara Falls Water Board insurance for liability for damages imposed by law, of the kinds and amounts hereinafter provided, from insurance companies authorized to do business in the State of New York covering all operations under the contract, whether performed by the contractor or its subcontractors. Before proceeding with any work under the contract, the contractor shall furnish to the Niagara Falls Water Board Certificate of Insurance form(s) and relevant insurance policy declarations and endorsements satisfactory to the Water Board exhibiting compliance with this paragraph and providing that the policies shall not be changed or canceled until thirty (30) days written notice has been given to the Niagara Falls Water Board. The types and limits of insurance shall be as follows:

1. Workers Compensation as required by Law (submit Form C-105.2);
2. Disability Benefits as required by Law (submit Form DB-120.1);
3. Employer’s Liability with a minimum limit of \$100,000;
4. Commercial General Liability insurance: Bodily, Personal Injury, and Property Damage Liability limits each of at least \$1,000,000 per occurrence/\$2,000,000 aggregate, which shall include the following coverages:
  - a. Owner’s Protective Liability
  - b. Premises – Operations

- c. Broad Form Contractual
  - d. Independent Contractor and Sub-Contractor
  - e. Products and Completed Operations
- 5. Automobile Liability: \$1,000,000 single limit;
  - 6. Umbrella/Excess Liability: OMITTED FOR THIS PROCUREMENT
  - 7. Professional Liability/Errors and Omissions: OMITTED FOR THIS PROCUREMENT

Certificates, declarations, and endorsements should be made to the Niagara Falls Water Board, 5815 Buffalo Avenue, Niagara Falls, NY 14304.

The Niagara Falls Water Board, the Niagara Falls Public Water Authority, and the City of Niagara Falls, New York shall be named as an Additional Insureds, for both Ongoing and Completed Operations on a primary and non-contributory basis, on the Liability (General Liability, Auto Liability and Excess Liability ) Policies (except for professional liability) with the following provision: The insurance company or companies issuing the policies shall have no recourse against the Niagara Falls Water Board or the Niagara Falls Public Water Authority for payment of any premiums or for assessments under any form of policy.

In the event that the contractor requires any subcontractor to procure insurance with regard to any of the operations under the contract and requires such subcontractor to name the contractor as an additional insured under such insurance, the contractor shall ensure that such policy names the Water Board, Niagara Falls Public Water Authority, and their officers and employees as additional insureds.

#### **F. Indemnification and Waiver of Subrogation**

Contractor, to the full extent permissible by New York law, agrees to indemnify and hold the Niagara Falls Water Board, its Directors, Officers, and Employees harmless against all loss, cost, or damage, on account of injury to person or damage to property as a result of any action or inaction of the contractor or its representatives or agents or subcontractors in performance of the contract and against all fines, penalties any other losses which the Niagara Falls Water Board shall be obliged to pay or incur in connection with the performance of the work under the contract.

The contractor also must agree to waive all rights against the Water Board, including its officials and employees, for any damages or losses that are covered under any insurance required by this contract, or any other insurance applicable to the operations of the contractor and/or its subcontractors in the performance of the contract.

#### **G. Independent Contractor**

The contractor and its employees will operate as an independent contractor and are not considered Water Board employees.

#### **H. Identification of Subcontractors**

Contractor must identify its subcontractors, if any, in its bid, but award of a contract shall not create any relationship between the subcontractors and Water Board, and



contractor shall be responsible for the entire contract. The Water Board shall have the right to reject any proposed subcontractors.

#### **I. Successors and Assigns**

The contract shall inure to the benefit of and be binding upon the legal representatives and successors of the parties, respectively, but contractor may not assign, transfer, convey, sub-let, or otherwise dispose of its rights, title, or interest in the contract without the Water Board's prior written consent. In the event that contractor assigns, transfers, conveys, sub-lets or otherwise disposes of any of its interest in the contract without the Water Board's prior written consent or purports to do so, the Water Board shall revoke and annul the contract and shall be relieved and discharged from any and all liability and obligations arising out of the contract and to contractor and to the person or corporation to which the contract shall have been assigned, transferred, conveyed, sublet or otherwise disposed of, and contractor, and his assignees, transferees or sublessees shall forfeit and lose all moneys, theretofore earned under the contract, except so much as may be required to pay contractor's employees for work performed under the contract. The provisions of this section shall not hinder, prevent, or affect an assignment by contractor for the benefit of his creditors made pursuant to New York State law.

#### **J. No Third Party Rights**

Nothing in this contract shall be construed or deemed to create any right in nay person or entity not a party to the contract, except any permitted successors and assigns, and nothing in this contract shall be construed in any way to be a contract in whole or in part for the benefit of any third party.

#### **K. Exemption from Tax**

Invoices and bills to the Water Board shall not include charges for any Federal, State or local excise, sales, transportation, or other tax, unless Federal or State law specifically levies such tax on purchases made by the Water Board.

#### **L. Set-Off Rights**

The Water Board shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the Water Board'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 from contractor to the Water Board with regard to this contract, any other contract with the Water Board, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing from contractor to the Water Board for any other reason including, without limitation, any monetary penalties.

#### **M. 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 Water Board and its representatives, 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 Water Board 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 Water Board 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 Water Board's right to discovery in any pending or future litigation.

#### **N. Freedom of Information Law – Claim of Confidential, Proprietary, or Trade Secret Information**

The Water Board is subject to the provisions of the Freedom of Information Law ("FOIL"), N.Y. Public Officers Law, Sections 84 through 90, relating to public access to agency records. The contractor shall specifically identify any portions of the documents submitted with the bid or proposal deemed to be confidential, proprietary information, or trade secrets and provide any justification why such material, upon request, should not be disclosed by the Water Board. The top of each page containing such information must be clearly marked in bold type **"PROPOSER BELIEVES THAT THIS INFORMATION IS PROTECTED FROM DISCLOSURE UNDER THE STATE FREEDOM OF INFORMATION LAW."** Such information deemed by the contractor to be confidential/proprietary shall be easily separable from the non-confidential/non-proprietary sections of the bid or proposal.

The Water Board accepts no responsibility for disclosure of information designated as exempt from disclosure, but the Board does intend to evaluate, on a case-by-case basis, whether exemption from disclosure applies when a FOIL request is made to the Water Board for examination of such a document. Contractors should be aware that any and all terms of their respective proposals or bids may be the subject of discussion at Board of Directors meetings that are open to the public.

#### **O. Compliance with Breach Notification and Data Security Laws**

Contractor shall comply with the provisions of the New York State Information Security Breach and Notification laws, General Business Law §§ 899-aa and 899-bb and State Technology Law § 208.

#### **P. General Conditions of Bids**

Detailed instructions regarding the submission of bids are set forth in the contract documents. In all cases, the Water Board shall have the right to reject all bids or to waive any technical defect, qualification, omission, informality, or irregularity in any bid received.

#### **Q. Bids Firm and Irrevocable for 60 Days**

The Water Board reserves the right to make awards within 60 calendar days after the time designated herein for the opening of bids, during which 60 days, bids may not be withdrawn.

## **R. 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 Exhibit A, the terms of this Exhibit A shall control.

## **S. Addenda**

Any clarification, interpretation, correction, or change of the bidding documents will be made by written addendum. Clarifications, interpretations, corrections, or changes of the bidding documents made in any other manner will not be binding, and contractors shall not rely upon such clarifications, interpretations, corrections, or changes. Contractors shall acknowledge the number of addenda received using this Appendix's Form No. 1.

## **T. Non-Discrimination and Prohibition Against Sexual Harassment**

In accordance with Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional nondiscrimination provisions, the contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), sexual orientation, national origin, age, disability, military status, predisposing genetic characteristics, domestic violence victim status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration, and/or repair of any public building and/or public work and/or for the manufacture, sale, and/or distribution of materials, equipment, and/or supplies, and to the extent that the 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; and/or (b) discriminate against or intimidate any employee hired for the performance of work under the 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.

Contractor agrees that prior to the award of a contract, it shall submit an Equal Employment Opportunity ("EEO") Policy Statement to the Water Board containing at a minimum the terms therefore as set forth in this Appendix's Form No. 4.

By submission of a bid, contractor and each person signing on behalf of contractor certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the contractor 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. Contractor agrees that prior to the award of a contract, it shall submit the Statement on Sexual Harassment form at this Appendix's Form No. 5.

## **U. Iranian Energy Sector Divestment**

Pursuant to Public Authorities Law § 2879-c, by signing this contract, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the state finance law. This list of persons who engage in investment activities in Iran is available at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>.

## **V. 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).

## **W. MacBride Fair Employment Principles**

In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the contractor hereby stipulates that contractor and any individual or legal entity in which the contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the contractor either (a) have 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(5) of the State Finance Law), and shall permit independent monitoring of compliance with such principles.

## **X. 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 State Finance Law §165 (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 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. Proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

## **Y. Steel Products**

If this contract involves steel products, then pursuant to Public Authorities Law § 2601-a:

- a. All purchase contracts for supplies, material or equipment involving an estimated expenditure in excess of fifty thousand dollars shall require with respect to materials, supplies and equipment made of, fabricated from, or containing steel components, that such steel components be produced or made in whole or substantial part in the United States, its territories or possessions.
- b. All contracts in excess of one hundred thousand dollars for the construction, reconstruction, alteration, repair, maintenance or improvement of public works shall require that all structural steel, reinforcing steel or other major steel items to be incorporated in the work of the contract shall be produced or made in whole or substantial part in the United States, its territories or possessions.

## **Z. Delivery of Products**

Products to be delivered by contractor to the Water Board shall be delivered FOB destination, prepaid and invoiced.

### **AA. Wage and Hour Requirements**

OMITTED FOR THIS CONTRACT.

### **BB. Workforce Reporting**

OMITTED FOR THIS CONTRACT.

### **CC. M/WBE and SDVOB Requirements and Grant Funded Projects**

OMITTED FOR THIS CONTRACT.

### **DD. New York State Certified Apprenticeship Training Program Requirements**

OMITTED FOR THIS CONTRACT.

### **EE. Payment**

Contractor agrees to provide complete and accurate billing invoices to the Water Board on a monthly basis, and will comply with cover sheet requirements or other invoice submission procedures as the Water Board may from time to time require. Invoices submitted must contain sufficient information and documentation to support the charges submitted. Documentation may include time sheets, expense vouchers and any other supportive

documentation requested by the Water Board or its representative. If contractor is in compliance with applicable prevailing wage laws and has satisfactorily completed all required Minority, Women, and Disadvantaged Business Enterprise and Service-Disabled Veteran-Owned Business utilization and reporting requirements, payment shall be made monthly on the basis of invoices submitted by contractor, each payment to be due sixty (60) days after receipt of the invoice, unless the Water Board reasonably disputes some or all of the invoice.

**FF. Conflicts of Interest and Prohibition on Political and Religious Activity**

By submitting a bid or by assuming the responsibility of a contract awarded hereunder, contractor stipulates that, upon information and belief, no member of the governing body of the Water Board, or officer or employee of the Water Board, forbidden by Law, is interested in, will derive benefit from, or will be a party to, the contract between contractor and the Water Board. Contractor warrants that no payment, gift, or thing of value has been or will be made, given, or promised any Director, Officer, or Employee of the Water Board, or any member of the immediate family of any Director, Officer, or Employee of the Water Board (spouse, parent, sister, brother, or child) to obtain this or any other agreement between the parties. Contractor agrees that its provision of services under this contract shall not include any partisan political activity or any activity to further the election or defeat of any candidate for public, political, or party office, nor shall any of the funds provided under the contract be used for such purposes. The contractor further agrees that there shall be no religious worship, instruction, or proselytizing as part of or in connection with the contractor's provision of services under the contract, nor shall any of the funds provided under this agreement be used for such purposes.

**GG. Non-Collusion**

Contractor must submit a signed non-collusive bidding certification on the form that is this Appendix's Form No. 2.

**HH. Communication with Water Board and Lobbying Law.**

Bidders/contractors are advised that, from the date the notice to bidders or invitation to bid is issued until the award of the contract, no contact by bidders or their agents with the Water Board or Water Board personnel related to this procurement is permitted, except as shall be authorized by the authorized Water Board contact indicated on the invitation to bid.

Pursuant to State Finance Law Sections 139-j and 139-k, this solicitation includes and imposes certain restrictions on communication between respondents and the Water Board during the procurement process. A respondent is restricted from making contacts from the date the invitation to bid is issued through the final contract award by Water Board (the "Restricted Period"). During the Restricted Period, respondents may only contact the designated contact regarding this procurement. The designated contact is identified on the invitation to bid or notice to bidders. Respondents are responsible for complying with State Finance Law Sections 139-j and 139-k. Directors, officers and employees of the Water Board are required to record certain information when contacted during the Restricted Period. A review of whether such contacts were permissible contacts will be considered in connection with any determination of responsibility of the respondent. Failure of any respondent to timely certify or to disclose accurate and complete information or the submission of any intentionally false or intentionally

incomplete certification may result in the rejection of the contract award or if such contract has been executed, then the immediate termination of the contract. Violations may result in debarment of the respondent from proposing on or obtaining governmental procurement contracts in the State of New York.

Contractors are required to complete and return with their bid this Appendix's Form No. 3, New York State Finance Law Sections 139-j and 139-k ("Lobbying Law") – Disclosure Statement.

## **II. Waiver of Immunity**

By entering into this agreement, the contractor agrees, acknowledges, and accepts that pursuant to Public Authorities Law § 2875, upon the refusal by a person, when called before a grand jury, head of a state department, temporary state commission or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with any public department, agency or official of the state or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract, (a) such person, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any public authority or official thereof, for goods, work or services, for a period of five years after such refusal, and (b) any and all contracts made with any public authority or official thereof, by such person and by any firm, partnership or corporation of which he is a member, partner, director or officer may be cancelled or terminated by the public authority without incurring any penalty or damages on account of such cancellation or termination, but any monies owing by the public authority for goods delivered or work done prior to the cancellation or termination shall be paid.

## **JJ. Termination**

1. For Cause: For a material breach that remains uncured for more than thirty (30) days or other specified period after written notice to the contractor, the contract may be terminated by the Water Board at the contractor's expense where contractor becomes unable or incapable of performing, or meeting any requirements or qualifications set forth in the contract, or for nonperformance, or upon a determination that contractor is nonresponsible. Such termination shall be upon written notice to the contractor. In such event, the Water Board may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.
2. For Convenience: By written notice, this contract may be terminated at any time by the Water Board for convenience upon thirty (30) days written notice and without penalty or other early termination charges due. Such termination of the contract shall not affect contractor's right to recover for any work performed or materials acquired under the contract prior to the date of such termination, provided that contractor cancels, prior to the effective date of the termination, as many outstanding obligations as possible and agrees not to incur any new obligations after receipt of the notice of termination without approval by the Water Board. If the contract is terminated pursuant to this subdivision, the Water Board shall remain liable for all accrued but unpaid charges incurred through

the date of the termination. Contractor shall use due diligence and provide any outstanding deliverables.

3. For Violation of the Sections 139-j and 139-k of the State Finance Law: The Water Board reserves the right to terminate the contract in the event it is found that the certification filed by the contractor in accordance with Section 139-k of the State Finance Law was intentionally false or intentionally incomplete. Upon such finding, the Water Board may exercise its termination right by providing written notification to the contractor.

#### **KK. Governing Law and Venue**

These terms and conditions and the contract shall be governed by the laws of the State of New York. Each of the parties to these terms and conditions and the contract submits to the exclusive jurisdiction and venue of the State and Federal courts located in Niagara County, New York, or if the required Federal courts are not located in Niagara County, to the Federal courts located in Erie County, New York.

#### **LL. Service of Process and Notices**

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 Water Board's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the Water Board, in writing, of each and every change of address to which service of process can be made. Service by the Water Board to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond. A copy of all notices to the Water Board shall be provided to: Legal Department, Niagara Fall Water Board, 5815 Buffalo Avenue, Niagara Falls, NY 14304.

#### **MM. No Waiver of Rights**

No failure or delay (in whole or in part) on the part of either party hereto to exercise any right or remedy hereunder shall impair its ability to later exercise any such right or remedy, operate as a waiver thereof, or affect any other rights or remedies that may be available under the law or in equity, except to the extent it causes actual prejudice to the other party. No waiver by either party of any covenant, condition, term or provision of the contract shall be deemed to have been made by that party unless such waiver is in writing and signed by an authorized representative of the party.



**APPENDIX A, FORM No. 1**

**ACKNOWLEDGEMENT OF ADDENDA**

PROJECT TITLE: \_\_\_\_\_  
(Write the Project No. and Title on the Line Above)

DIRECTIONS: Complete Part I or Part II, whichever is applicable.

PART I: LISTED BELOW ARE THE DATES OF ISSUE FOR EACH  
ADDENDUM RECEIVED IN CONNECTION WITH THIS BID:

ADDENDUM # 1: DATED \_\_\_\_\_ , 20\_\_

ADDENDUM # 2: DATED \_\_\_\_\_ , 20\_\_

ADDENDUM # 3: DATED \_\_\_\_\_ , 20\_\_

ADDENDUM # 4: DATED \_\_\_\_\_ , 20\_\_

ADDENDUM # 5: DATED \_\_\_\_\_ , 20\_\_

ADDENDUM # 6: DATED \_\_\_\_\_ , 20\_\_

PART II: \_\_\_\_\_ INITIAL HERE IF NO ADDENDUM WAS RECEIVED  
IN CONNECTION WITH THIS BID INITIAL HERE

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

CONTRACTOR (SIGNATURE): \_\_\_\_\_

CONTRACTOR (NAME): \_\_\_\_\_

CONTRACTOR (FIRM): \_\_\_\_\_

**APPENDIX A, FORM No. 2**

## NON-COLLUSIVE BIDDING CERTIFICATION

Pursuant to New York State Public Authorities Law, Article 9, Title 4, Section 2878:

- (a) 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 to the best of his knowledge and belief:
- (1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
  - (2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
  - (3) 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.
- (b) A bid shall not be considered for award nor shall any award be made where (a)(1), (2), and (3) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where (a)(1), (2), and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the state, public department or agency to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

BIDDER (SIGNATURE): \_\_\_\_\_

BIDDER (NAME): \_\_\_\_\_

BIDDER (FIRM): \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.:

COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_ as a representative of \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the entity on behalf of which the individual acted executed the instrument.

Notary Public

## **APPENDIX A, FORM No. 3**

### **NEW YORK STATE FINANCE LAW SECTIONS 139-j AND 139-k (“LOBBYING LAW”) – DISCLOSURE STATEMENT**

#### **General Information**

All procurements by the Niagara Falls Water Board (“NFWB”) in excess of \$15,000 annually, are subject to New York State’s State Finance Law Sections 139-j and 139-k, effective January 1, 2006 (“Lobbying Law”).

Pursuant to the Lobbying Law, all “contacts” (defined as oral, written or electronic communications with the NFWB intended to influence a procurement) during a procurement - from the earliest notice of intent to solicit bids/proposals through final award and approval - must be made with one or more designated Point(s) of Contact only. Exceptions to this rule include written questions during the bid/proposal process, communications with regard to protests, contract negotiations, and pre-bid conference participation. Nothing in the Lobbying Law inhibits any rights to make an appeal, protest, or complaint under existing administrative or judicial procedures.

Violations of the policy regarding permissible contacts must be reported to the appropriate NFWB officer and investigated accordingly. The first violation may result in a determination of non-responsibility and ineligibility for award to the violator and its subsidiaries, affiliates and related entities. The penalty for a second violation within four (4) years is ineligibility for bidding/proposing on a procurement and/or ineligibility from being awarded any contract for a period of four (4) years. The NFWB will notify the New York State Office of General Services (“OGS”) of any determinations of non-responsibility or debarments due to violations of the Lobbying Law. Violations found to be “knowing and willful” must be reported to the NFWB Executive Director and OGS.

Moreover, the statutes require the NFWB to obtain certain affirmations and certifications from bidders and proposers. This Disclosure Statement contains the forms with which offerors are required to comply, together with additional information and instructions.

#### **Instructions**

New York State Finance Law §139-k(2) obligates the NFWB to obtain specific information regarding prior non-responsibility determinations. In accordance with New York 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 New York State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a governmental entity.

As part of its responsibility determination, New York 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 the factual elements of the limited waiver provision can be satisfied on the written record.

**Disclosure of Prior Non-Responsibility Determinations**

**Name of Bidder/Proposer:** \_\_\_\_\_

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

**Name and Title of Person**

**Submitting this Form:** \_\_\_\_\_

**Has any governmental entity<sup>1</sup> made a finding of non-responsibility regarding the Bidder/Proposer in the previous four years?**

\_\_\_\_ Yes \_\_\_\_ No

**If yes: Was the basis for the finding of the Bidder's/Proposer's non-responsibility due to a violation of State Finance Law §139-j?**

\_\_\_\_ Yes \_\_\_\_ No

**Was the basis for the finding of Bidder's/Proposer's non-responsibility due to the intentional provision of false or incomplete information to a governmental entity?**

\_\_\_\_ Yes \_\_\_\_ No

**If yes to any of the above questions, provide details regarding the finding of non-responsibility below:**

**Governmental Entity:** \_\_\_\_\_

**Year of Finding of Non-responsibility:** \_\_\_\_\_

**Basis of Finding of Non-Responsibility (attach additional pages if necessary):** \_\_\_\_\_

---

---

---

---

---

---

---

---

---

---

**Has any governmental entity terminated or withheld a procurement contract with the Bidder/ Proposer due to the intentional provision of false or incomplete information?**

**Yes      No**

If yes, provide details regarding the termination/withholding below:

Governmental Entity: \_\_\_\_\_

Year of Termination/Withholding:\_\_\_\_\_

Basis for Termination/Withholding (attach additional pages if necessary):

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**The NFWB reserves the right to terminate a Contract (including any lease, license, entry permit, or sale documents) in the event it is found that the certification filed by the Bidder/Proposer, in accordance with New York State Finance Law §139-k, was intentionally false or intentionally incomplete. Upon such finding, the NFWB may exercise its termination right by providing written notification to the Bidder/Proposer in accordance with the written notification terms of the Contract.**

By signing below, the Bidder or Proposer:

- DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

BIDDER/PROPOSER (FIRM): \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_ as a representative of \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the entity on behalf of which the individual acted executed the instrument.

Notary Public

**APPENDIX A, FORM No. 4**

**EQUAL EMPLOYMENT OPPORTUNITY (“EEO”)  
POLICY STATEMENT AND AGREEMENT**

Contractor hereby agrees to the following EEO policy with respect to its work on any contract awarded in connection with this procurement:

- 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 Niagara Falls Water Board (“Water Board”) contracts.
- b) This organization shall state in all solicitations or advertisements for employees that in the performance of the Water Board 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 Water Board, this organization 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 this organization’s obligations herein.
- d) This organization shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. 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, pregnancy or pregnancy-related conditions, gender identity, familial status, 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 section (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 Water Board contract.

**ACCEPTED AND AGREED:**

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

CONTRACTOR (SIGNATURE):

\_\_\_\_\_

CONTRACTOR (NAME):

\_\_\_\_\_

CONTRACTOR (FIRM):

\_\_\_\_\_

**STATEMENT ON SEXUAL HARASSMENT  
PURSUANT TO STATE FINANCE LAW § 139-I**

Appendix A - Page | 18



**STANDARD TERMS AND CONDITIONS  
ACKNOWLEDGEMENT AND CERTIFICATION**

(write Bid or Project Number and Title)

I recognize that all information submitted is for the express purpose of inducing the Water Board to enter a contract with the submitting business entity. I affirm, under the penalties of perjury, that to the best of my knowledge the information contained in the bid or proposal is full, complete, and truthful.

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

CONTRACTOR (SIGNATURE):

CONTRACTOR (NAME):

CONTRACTOR (FIRM):

STATE OF \_\_\_\_\_ )  
 ) ss.:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_ as a representative of \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the entity on behalf of which the individual acted executed the instrument.

Notary Public

**THIS PAGE LEFT BLANK**

# **APPENDIX B**

## **BIDDER'S CERTIFICATION & ASSIGNMENT OF CLAIM**

## **BIDDER'S CERTIFICATION & ASSIGNMENT OF CLAIM**

**THIS FORM MUST BE COMPLETED IN INK, BE TYPED OR BE COMPUTER GENERATED,  
BE CLEARLY LEGIBLE AND BE SIGNED AND DATED WITH EITHER BLUE OR BLACK INK.  
FAILURE TO DO THIS MAY RESULT IN REJECTION.**

I/We, the undersigned, herewith propose and agree to furnish to the Board any one or all of the items upon which we have submitted, for the prices indicated herein, in accordance with the instructions, General Conditions and Specific Terms, Conditions and Specifications and any other related formal documents.

The undersigned individual certifies to having read these Instructions, General Conditions, Specific Terms, Conditions and Specifications and any other related formal documents and offers to furnish the articles specified to the Board in exact accordance with same at the prices herein stated.

Vendor hereby assigns to the Board and the State of New York any and all of its claim(s) for overcharges associated with this contract/agreement which arise under the antitrust laws of the United States, 15 U.S.C. Section 1, et seq. and the antitrust laws of the State of New York, G.B.L. Section 340, et seq.

\_\_\_\_\_  
VENDOR NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY, STATE, ZIP

\_\_\_\_\_  
TELEPHONE NUMBER

\_\_\_\_\_  
NAME & TITLE

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
DATE

# **APPENDIX C**

## **NON-SUBMISSION CERTIFICATE**

## NON-SUBMISSION CERTIFICATE

### Instructions

1. Place an X on the appropriate line(s) below.
  2. Complete and return ONLY this page of the package.
  3. Make sure to place your submission number on your envelope and return it to the Purchasing Division
- NOTE: It is required that you indicate your reason for not making a submission.

\_\_\_\_ We are not making a submission.

\_\_\_\_ We request that you remove our name from the mailing list for this offering only.

\_\_\_\_ We request that you remove our name from the mailing list for all future offerings made by the Board.

VENDOR NAME: \_\_\_\_\_

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

CITY, STATE and ZIP CODE: \_\_\_\_\_

REASON FOR NOT MAKING A SUBMISSION:

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

SIGNATURE: \_\_\_\_\_