

NIAGARA FALLS WATER BOARD



REQUEST FOR PROPOSALS (“RFP”) NO. 2025-01

WWTP Preliminary Engineering Report

1. Essential Information

i. Deadline for Proposal Submissions:

Friday, August 8, 2025 at 2:00 p.m. EST.

ii. Preproposal Information Session and Site Tour:

Attendance at a non-mandatory pre-proposal information session on Wednesday, July 30, 2025 at 9:00 a.m. is encouraged. NFWB staff will offer interested parties site tours following the preproposal information session. Location is the WWTP Administration Building at 1201 Buffalo Ave., Niagara Falls, NY 14303. Enter through East Gate and sign in with security. Site map will be available at East Gate.

iii. Background Documents:

Background documents that may be useful to proposers are available to review via a password protected SharePoint folder titled “WWTP PER Background Documents.” Email the authorized NFWB contact below for folder access. The NFWB will inform individuals who are on the distribution list for this RFP if the NFWB adds documents to the SharePoint folder in response to questions or otherwise.

iv. Written Questions:

The deadline for receipt of written questions sent to the authorized NFWB contact via email is Friday, August 1, 2025 at 2:00 p.m. It is expected that a written response to the questions will be issued by 5:00 p.m. on Monday, August 4, 2025.

v. Proposal Submissions:

Proposers must deliver one digital copy of their proposal in a single PDF file via upload to a unique SharePoint folder. The NFWB shall consider the PDF copy to be the original proposal, and electronic signatures are acceptable. Electronic upload via SharePoint is the only acceptable method for delivering submissions; the NFWB will not accept e-mail, fax, or courier delivery of proposals for this RFP.

Proposing firms must email the authorized NFWB contact below for a link to a SharePoint folder prior to the deadline for proposal submissions. This folder will be protected with a password unique to the firm. Folders will be named by color to avoid disclosure of the names or number of proposing firms prior to the deadline for proposal submissions. Proposers should upload a test PDF document to the SharePoint folder in advance of the proposal submission deadline and may contact the authorized Water Board contact to verify that the contact is able to find and open the test PDF.

The NFWB assumes no liability for assuring correct/complete uploads and may disregard proposals with PDF files that do not open using Adobe Acrobat Reader. The responsibility solely lies with each proposer to upload their proposal prior to the deadline for submission. Refer to the body of this RFP and to the attached NFWB RFP Standard Terms, Conditions, and Requirements for other proposal submission requirements.

vi. Authorized Water Board Contact:

The NFWB's designated contact person for all matters concerning this Request for Proposals is:

Sean W. Costello
Executive Director & General Counsel
Niagara Falls Water Board
5815 Buffalo Avenue
Niagara Falls, New York 14304
(716) 299-7788
scostello@NFWB.org

To receive updates about this RFP and to receive addenda, if any, email the authorized NFWB contact for addition to the distribution list for RFP No. 2025-01.

2. Introduction and Project Description

a. RFP Principal Objectives

i. Approvable PER

On May 28, 2024 the NFWB entered into an Order on Consent with the NYSDEC (Order R9-20230411-13) regarding the ability of the NFWB WWTP to meet the narrative water quality parameter for turbidity, which as applicable requires “No increase that will cause a substantial visible contrast to natural conditions.” This Order on Consent is included in the WWTP PER Background Documents SharePoint sub-folder “1 NFWB Executed Order R9-20230411-13.”

Pursuant to Schedule A of the Order on Consent, the primary purpose for this RFP is to develop an approvable updated preliminary engineering report (PER) for the *Evaluation of the Conversion and Modification of the Niagara Falls Water Board Wastewater Treatment Plant into a Biological Treatment Process or Alternative Improvements to Meet Water Quality Standards*. The selected consultant will prepare a PER that meets the requirements of the most recent version of the EFC/DEC Engineering Report Outline (<https://www.dec.ny.gov/permits/6054.html>).

The report shall be prepared and signed by a Professional Engineer licensed to practice engineering in New York State and describe treatment alternatives or other control mechanisms (i.e., Pretreatment Program / Sewer Use Law) that may be used to address and establish the final effluent limitations for:

- BODs
- Phenolics, Total
- Dieldrin
- Chlorine, Total Residual
- Sulfides, Total

The updated PER shall identify the selected treatment alternative. The selected alternative must either constitute a full or partial conversion of the secondary treatment process utilized at the Facility to a biological treatment process or otherwise make such capital or operational improvements as are required to abate discharges from the wastewater treatment plant that may cause a substantial visible contrast/turbidity in the receiving water.

The PER shall include an assessment of the selected alternative as well as a review of other alternatives and their projected costs/benefits. It will outline the proposed strategy for procurement of any proprietary technology, together with preliminary site plans, property acquisition needs, survey, process flow diagrams, piping and instrumentation diagrams, any other potential draft permit issues identified and the status of their resolution, tie ins to existing processes should be identified, construction sequencing, selection of major equipment/components, along with a discussion of the basic site civil, mechanical, electrical, and instrumentation and control considerations, and a cost estimate. The PER shall describe the proposed plan for treatment during construction, as well as proposed interim effluent limits. Additionally, the PER shall discuss phasing of construction to continue to maximize treatment of wastewater during implementation or construction of the selected alternative. The PER shall detail the proposed final effluent limits to which the selected alternative is designed to comply.

More details on the items that the PER to be prepared by the selected consultant must contain follow.

ii. Addressing Draft SPDES Discharge Permit

On December 23, 2024, the NYSDEC advised the NFWB that it intended to renew and modify the WWTP's State Pollutant Discharge Elimination System (SPDES) permit. Documents relevant to the draft SPDES permit, including the NFWB's comments, are included in the SharePoint sub-folder "2 WWTP SPDES Permit." As of the date of this RFP, NYSDEC's response to the NFWB's comments has not been issued.

The PER prepared pursuant to this RFP will be informed by the proposed final effluent limits and other requirements in the draft permit. To the extent a compliance with a proposed final effluent limit is not reasonably achievable, the selected consultant will provide technical assistance to the NFWB in working with NYSDEC on establishing final effluent limits, as the anti-backsliding rule would not prohibit revision of the proposed final effluent limits provided the revision takes effect prior to the scheduled date of compliance for that effluent limitation.

b. The Niagara Falls Water Board (NFWB)

The NFWB is a public benefit corporation created in 2002 by a special act of the New York State Legislature. Its mission is to provide safe and reliable water and wastewater management services to our community in an economical and efficient manner. In 2003, it acquired the drinking water, wastewater, and stormwater systems previously owned and operated by the City of Niagara Falls, a separate municipal entity.

The NFWB has five Board Members, each appointed by a different political entity. The Board Members serve without compensation and appoint an Executive Director to direct and supervise the entity's day-to-day operations. The same small team manages administration not just of the wastewater treatment plant and associated collection system but also the drinking water system and its separate treatment plant. For this reason, the project team for the selected consultant must be prepared to take the initiative, be self-directed, and must present concise and clear alternatives for NFWB decision makers. Current NFWB organizational charts are maintained here: <https://nfwb.org/about/staff/>.

The Niagara Falls Public Water Authority (NFPWA), which has three Members, finances NFWB system improvements. The NFPWA maintains no staff; NFWB staff provide the limited work needed to support the Authority's operations.

The legislation that created the NFWB, as well as copies of its current Water and Wastewater Regulations (which include the equivalent of the NFWB's Sewer Use Ordinance) are available in the WWTP PER Background Documents sub-folder titled "NFWB Regulations Etc." Proposers should be conscious of the requirements of the NFWB Procurement Policy and Procedures, a copy of which is included in the Enabling Law and NFWB Regulations sub-folder.

c. Wastewater Collection System Overview

The NFWB owns and maintains the 7,030-acre sewer system within the City of Niagara Falls, NY (City). Approximately two thirds (4,630 acres) of the collection system is a combined system, collecting both sanitary sewage and stormwater from residential, commercial, and industrial sources for conveyance to and treatment at the wastewater treatment plant

(WWTP) at 1201 Buffalo Avenue. The combined sewer area encompasses the northern, western, and central portions of the city. The remaining one third (2,400 acres), which is the LaSalle area encompassing the eastern part of the city, is served by separate sanitary and storm sewers. The NFWB IPP currently regulates 22 Significant Industrial Users (SIU's) and several smaller Industrial, Commercial Users (ICU's). Maps providing an overview of the collection system are in the SharePoint sub-folder "6 Wastewater Treatment Plant Drawings." Of note, 55% of the WWTP influent flow enters the WWTP through a 6-foot diameter gravity sewer and 45% through an 8,500 foot long, thirty-six inch diameter force main from a pumping station in the Niagara River gorge. Force main influent is observed to be more diluted and may be amenable to different treatment. See the SharePoint folder titled "8 Misc WWTP Data and Reports" for data obtained to characterize these influent streams.

d. Wastewater Treatment Plant Description

Proposers are directed to the file saved as "2024 Addendum and 2019 Report on Evaluation of the Conversion and Modification of the WWTP into a Biological Treatment Process" in the SharePoint sub-folder "7 NFWB Turbidity and Bio Conversion Reports" for an overview of the basis of design for the existing WWTP. Note that while the MBR system recommended in this report prepared by AECOM is one alternative for consideration, the expected cost of that system may pose an unreasonable burden on the NFWB's ratepayers. Much of the NFWB service area is designated as a disadvantaged community under New York's Climate Leadership and Community Protection Act (CLCPA). There are other options and there may have been advances in wastewater treatment technology since the AECOM report was prepared that may be able to provide effective treatment. Proposers must include in their work pursuant to this RFP evaluation of alternatives that can meet the objectives set forth herein at a lower capital and/or operating cost.

3. Requirements

a. Standards for Work and Capabilities

The selected consultant's work should be thorough, complete, and meet all applicable standards. The PER specifically must meet all requirements described in the DEC/EFC Engineering Report Outline, including compliance with the design standards cited therein (Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers "Ten States Standards," New England Interstate Water Pollution Control Commission TR-16 Guides, etc.). Consultant's work also must be guided by applicable requirements of the Clean Water Act, NYS Environmental Conservation Law, NYSDEC Regulations, and NYSDEC Technical & Operating Guidance. Further, industry standards, such as Water Environment Federation Manuals of Practice and American Water Works Association Standards, will be employed as proper.

The selected consultant shall be a firm with proven experience and expertise in designing wastewater facilities that meet discharge permit requirements and follow applicable best practices, industry standards, laws, and regulations. The selected consultant must be available to begin work at once and to devote sufficient resources to this project to meet the February 28, 2026 Order on Consent deadline for submitting the PER to NYSDEC.

b. Project Management

The consultant will name in its proposal the qualified person who shall serve as the Project Manager. This individual shall be the NFWB's primary point of contact and responsible for overseeing the development of the PER. The Project Manager will work closely with NFWB staff, will respond promptly to routine inquiries, and will provide formal status reports at least twice per month. The Project Manager shall meet with NFWB staff and NYSDEC representatives as needed throughout the development of the PER. The Project Manager and other consultant staff will take part in in-person and videoconference meetings as necessary to complete the tasks described below.

Project Management and Administration are to be incorporated in each of the tasks described below, and a separate proposal/fee for this is not necessary for proposal submission.

c. EFC and NFWB Requirements

Consultant's work will be funded in part through NYS Clean Water State Revolving Fund and Federal monies through the Bipartisan Infrastructure Law. As such, consultant's work must strictly adhere to the Mandatory State Revolving Fund Equivalency Project Terms and Conditions that are attached hereto as Appendix A, and which shall be incorporated into the contract resulting from this RFP. **A completed and signed Disadvantaged Business Enterprise (DBE) Utilization Plan, Appendix A at Attachment 1, must be submitted with your proposal.**

Consultant also shall be responsible for compliance with the NFWB RFP Standard Terms and Conditions attached hereto as Appendix B and which shall be incorporated into the contract resulting from this RFP. **Consultant must submit signed copies of all six (6) forms attached to Appendix B with their proposal.**

d. Tasks

Consultant's work will include the following tasks:

i. Review of Existing Information

This will include a review of available existing information related to the existing WWTP that is relevant to the work that is the subject of this RFP, as well as understanding current operational practices and issues at the WWTP. The nature of this work requires that the selected consultant will perform some of this task onsite at the WWTP.

ii. Planning and Alternatives Evaluation

This will include the preparation of a plan for the evaluation of technologies for secondary treatment. This planning phase will build off the previously developed report on Evaluation of the Conversion and Modification of the WWTP prepared by AECOM and other existing information. However, the NFWB would like to explore options beyond just the MBR recommended by that report and is open to adopting any technologies or improvements that best achieve the goals of this RFP.

The planning and alternatives evaluation will be guided by the consultant's expertise, but will include:

- Determination of the design capacity to provide sufficient treatment capacity based on long term flow and load projections.
- Evaluation and selection of liquid treatment processes and technologies to meet operational and regulatory requirements.
 - Evaluation should include exploring options for applying different treatment to the more dilute influent delivered via the Gorge Force Main.
 - WWTP upgrades cannot result in unaffordable wastewater treatment costs for the NFWB service area. The cost of the upgrades to be designed as part of this overall project are not expected to be offset by increased revenue through growth of the WWTP's service area or increased demand from new development.
 - Evaluation should explore whether enhancements in treatment capabilities or construction of added improvements such as holding tanks can provide potential revenue sources to offset operational costs, such as through acceptance of landfill leachate for treatment.
 - Evaluation should include analysis of adding equipment such as sludge dryers to reduce OPEX.
 - The consultant's work must be informed by the need to deliver WWTP improvements that can be operated and maintained successfully by NFWB employees with a level of skill and experience similar to the existing workforce after reasonable training on new equipment and processes.
- Full-scale testing and/or pilot testing to understand and establish operationally achievable permit limits at the WWTP, as necessary.
 - The Order on Consent requires the PER to be delivered to NYSDEC by the end of February 2026. If testing is determined to be desirable and useful results from that testing cannot be obtained in time to meet this deadline, that testing will be contingent upon NYSDEC approval either of schedule modification or of a plan to submit results as an addendum to the PER. If testing is approved that will continue after the PER delivery deadline noted above, the NFWB will entertain a proposal for additional fee.
- Plan to meet the interim and future effluent permit limits in the Order on Consent and draft SPDES permit and to comply with all components of the Order on Consent.
 - The NFWB has expressed concerns with the CORMIX mixing zone analysis upon which certain parameters of the draft SPDES permit are based. It shall be part of the consultant's scope of work to review whether the proposed final effluent limits are unduly restrictive due to the proposed mixing zone and if appropriate the consultant shall prepare and present an alternative mixing zone analysis to submit to the NYSDEC for consideration.

As part of this subtask, the consultant will assess existing mixing zone analysis and effluent characteristics and receiving water characteristics as referenced in the documents contained in the SharePoint sub-folder "2 WWTP SPDES Permit."

To the extent that consultant finds completing the alternative mixing zone analysis will require consultant to subcontract for data collection or special analytical work, the NFWB will entertain a contract amendment for an additional fee. Per the NFWB's interpretation of EFC's Architectural/Engineering Services Procurement guidance, such an amendment is not expected to require the NFWB to engage in a new architectural/engineering procurement process because the contract amendment would not introduce a new scope of work or task to this project.

- Evaluation of implementation timing for the design and construction to provide sufficient treatment capacity at WWTP based on construction phasing and long-term projections.
- Development of design criteria and basis of design for each treatment process.
- Consideration of the nature and extent of updates/revisions to existing NFWB Wastewater Regulations, Pretreatment Program Requirements, Local Limits, Staff Licensure, and similar ancillary needs associated with WWTP upgrades.

Close collaboration with NFWB staff will be required during the planning phase to ensure that the treatment evaluation covers the technical needs, meets the requirements of plant staff, and aligns with the effluent targets specified in the Order on Consent and draft SPDES permit. The engineering consultant will also be expected to take part in one or more discussions with NYSDEC staff during this phase to ensure alignment with the regulator's expectations.

iii. Preliminary Engineering Services (~15% Design)

a. Selecting an Alternative and Designing for Overall Success

Based upon the evaluation of treatment technology alternatives produced in the Planning Phase, the NFWB will collaborate with the consultant to define the alternative to serve as a basis for the preliminary engineering design. The preliminary design will serve as basis for the detailed design, budgeting, and eventual construction of the treatment upgrades at the WWTP. The preliminary design should be detailed enough to serve as a basis for the detailed design.

This preliminary “~15%” design will encompass the tasks and deliverables necessary for the development and preparation of preliminary engineering drawings, specifications list, drawing list, AACE Class 3 engineer's opinion of probable construction cost (OPCC), and a Preliminary Engineering Report (PER). An approximate schedule for construction of improvements should be prepared as part of meeting Order on Consent requirements that the PER describe the proposed plan for treatment during construction and discuss phasing of construction to continue to maximize treatment of wastewater during implementation or construction of the selected alternative.

The engineering firm will employ and present use of a computerized static simulation model (such as Biowin, GPS-X, or equivalent), dynamic model (such as SIMBA), or proprietary design tool which can be calibrated based on real plant data in order to simulate different design scenarios to be examined at the different stages of the proposed design review and design project.

The preliminary engineering design must meet the effluent targets specified by the Consent Order and draft renewal of the WWTP's SPDES permit unless otherwise agreed with NYSDEC. The design shall include the liquid treatment processes, solids handling processes as well as electrical and ancillary systems necessary to develop AACE Class 4 estimates of the recommended alternative. The design also shall include such other facilities as are considered complementary to the proposed improvements by offsetting OPEX.

In the interest of economy, it is the expectation that the design shall incorporate existing WWTP infrastructure that is in good condition to the greatest extent possible. In recent years, the NFWB has completed several capital projects to rehabilitate elements of the WWTP. The selected consultant will conduct a basic review of the physical condition of the existing

WWTP infrastructure and major equipment that will remain in use after construction of the recommended alternative. The PER should include information on the scope and probable cost of rehabilitation or replacement of such existing infrastructure if it has an estimated remaining useful lifespan of fewer than 15 years and of such major equipment with an estimated remaining useful lifespan of fewer than 10 years.

b. PER Content

The engineering firm shall submit a PER for the design of the selected secondary treatment technology. This report shall include the content required by NYSEFC and NYSDEC. As part of this deliverable, which will be used to meet the requirements of the Order on Consent and draft SPDES permit and to support grant and other funding requests, the engineering firm will provide narrative comments on the recommended treatment process units, including summarizing the reasons for choosing those technologies in terms of cost, stability of water quality, where the technology has been successfully used, maintenance, amount of chemicals used, comments on the validity of the operational complexities, and other relevant issues.

To the extent these items are not already encompassed by the requirements described above, the report and drawings produced shall at a minimum also include the following:

- 1) Detailed basis of design.
 - a. Flow and Load Projections (including average, maximum and minimum).
 - b. Design Flows and Loads
 - c. Regulatory Requirements & Effluent Criteria
- 2) Unit Process Sizing
 - a. Mass Balance and energy balance.
 - b. Modelling of the plant
 - c. Process calculations justifying the proposed design. The following calculations/analyses must be presented.
 - i. Contaminates removal rate of each process unit.
- 3) Process Functional Design
 - a. Introduction
 - b. Plant Layout
 - c. Plant Hydraulics
 - i. Hydraulic Profile
 - ii. Detailed hydraulic sections of the main hydraulic structures, channels, and pipelines
 - d. Unit Process Descriptions
 - i. Process Description
 - ii. Equipment Selection and Sizing - Design Criteria & Description
 - iii. Arrangement
 - iv. Operational Strategy
- 4) Redundancy and reliability report regard the major process units, bypasses, and interconnections.
- 5) CAPEX and OPEX evaluation for the treatment process unit schemes shall be based on a 20-year life-cycle analysis. The evaluations shall include among other relevant information the following:
 - a. CAPEX evaluation:
 - i. Equipment cost per each process unit
 - ii. Structural/Architectural costs
 - iii. Installation costs
 - iv. Electrical costs

- v. Control system costs
- vi. Overhead and contingency
- vii. Contractor profit
- viii. Total capex evaluation
- b. OPEX Evaluation:
 - i. Workforce costs (number of workers and worker cost)
 - ii. Maintenance cost not including major maintenance every few years
 - iii. Major maintenance every few years
 - iv. Energy costs
 - v. Chemicals costs
 - vi. Frequency and cost of equipment replacement
 - vii. Sludge and wash streams handling, treatment, and disposal (all sludge line units)

Cost evaluations shall be based on a 20-year net present worth and include the database for the calculation of each item; Excel sheets shall be provided to the NFWB so that these calculations may be updated in future years if needed.

- 6) Drawings shall include proposed modifications, interconnections, and related existing infrastructure
 - a. Detailed Process flow diagram (PFD).
 - b. Detailed Piping and instrumentation diagrams (P&IDs) for all process lines. The P&IDs set shall include the following:
 - i. Process flow logic
 - ii. Piping and valving
 - iii. Equipment
 - iv. Primary instrumentation elements
 - v. Preliminary pipe sizing
 - vi. All process units
 - vii. Network system architecture
 - c. General arrangement of the plant including layouts (Site plan).
 - d. Hydraulic profile
 - e. Dimensional drawings of the main structures (Including general arrangement plan and general arrangement sections).
 - f. Preliminary process- mechanical drawings to show size, shape, location and elevation of the major equipment components and associated equipment.
 - g. Preliminary electrical drawings to show power one-line diagrams and general arrangement of major electrical equipment (switchgear, switchboards, motor control centers, power transformers, free-standing variable frequency drives)
- 7) Process Control Philosophy
- 8) Preliminary Start-up and commissioning plan
- 9) Details of proposed phased or staged plan for upgrades.
- 10) A general presentation that includes a summary, Conclusions & Recommendation for the Preferable Treatments Scheme (3D models for visual presentation)
- 11) Strategy for procurement of any proprietary technology in a manner consistent with applicable NFWB procurement regulations
- 12) Assessment of significant foreseeable Health and Safety Hazards of proposed improvements, with design work performed with a goal of minimizing risks consistent with OSHA hierarchy of controls
- 13) Discussion of anticipated requirements for staff licensing and training
- 14) Summary of any anticipated revisions to NFWB Wastewater Regulations (sewer use law) that will be required

- 15) Description of updates to NFWB Industrial Pretreatment Program that will be required during phases of recommended project and upon commissioning of updated plant and recommended strategy for accomplishing these, including:
 - a. updating Maximum Allowable Headworks Loadings
 - b. revision of local limits, and
 - c. allocation of industrial loadings and revision of SIU permits
- 16) Discussion of SEQR classification of proposed project and detail a pathway for SEQR compliance as necessary. Note that the NFWB anticipates that the improvements constructed pursuant to the PER will constitute SEQR Type II actions as improvements constructed per the requirements of an Order on Consent [see 6 NYCRR 617.5(c)(35)].
- 17) Identify any permits or approvals needed to support construction and operation of the proposed improvements and any scheduling considerations for these approvals which may impact construction timelines
- 18) Additional considerations necessary to deliver a complete and fully integrated project.

c. PER Submittal

The engineering firm shall submit a **draft Preliminary Engineering Report** containing the required scope. After an examination process of the design by NFWB, including a request for clarification, questions, discussions, requests for corrections, etc., the engineering firm will submit the **final Preliminary Engineering Report** to NFWB, and thereafter shall remain available to present and respond to inquiries from NYSDEC during its review.

4. Proposal Requirements

No specific page limit is set for proposals pursuant to this RFP, but consultants are encouraged to be concise. The proposals are to include, at a minimum, the following items:

- 1) Situation understanding,
- 2) Understanding of applicable regulations and standards,
- 3) Project approach, scope, and project organization,
 - This section should have a preliminary listing of some technologies or improvements suggested for further exploration by consultant's review of the background information provided by this RFP. This is an opportunity for consultants to differentiate themselves from competing firms by describing some innovative ideas based on experience and to demonstrate the firm's ability to meet the Order on Consent deadline for the PER (February 28, 2026).
- 4) Demonstrated experience on similar projects,
 - Consultants should focus on projects involving design of improvements to meet wastewater treatment compliance requirements. Proposals shall have material adequate to demonstrate experience and expertise in the following:
 - Wastewater hydraulics
 - Biological treatment processes
 - GAC filter/adsorption process
 - Odor treatment processes
 - Sludge handling
 - Treatment process evaluation, design, and implementation in colder climates similar to Niagara Falls

- Constructing improvements while maintaining treatment
- Supporting clients working effectively with regulatory agencies
- 5) Description of proposed project team and experience of key project professionals.
 - (a) The project team shall consist of at least the following personnel:
 - Project Manager, responsible for all interaction with the client and coordination of the entire design review and design process.
 - Lead Process Engineer(s) for designing the proposed treatment system upgrades, including Lead Engineer(s) for:
 - Pretreatment processes.
 - Liquid stream treatment processes with expertise in proposed technologies.
 - Sludge thickening and dewatering processes with expertise in process specific sludges.
 - Disinfection process
 - Wastewater permits and mixing zones
 - Hydraulic Engineer for design of the plant hydraulics and pumping systems.
 - Technical Advisor
 - (b) A project team organization chart, including the role and responsibilities of the engineering firm's project team and their location shall be included.
 - (c) Resumes providing details on the relevant experience and qualifications of members of the project team should be provided in an appendix.
 - (d) Proposals should describe the firm's local presence and how local staff will collaborate with project team members located outside of Western New York to deliver a complete and efficient project.
- 6) Experience & qualifications of subconsultants
- 7) Fee and schedule information described below.

5. Fee and Schedule

The NFWB expects to start proposal review at once on receipt of proposals and to schedule a special meeting of its Board of Directors to accept a proposal during the second full week of August 2025. The contract will be in a form like the sample attached hereto as Appendix C. Consultant's proposal should provide a proposed schedule for its work expecting contract execution on August 15, 2025. The consultant should be prepared to begin work at once.

Proposals should provide a proposed total fee for the project along with a summary of tasks/components of the project as defined by the consultant and the estimated personnel hour requirements and billing rates for personnel associated with those tasks as well as estimated subcontractor costs which will be used to track the project's budget. Payment for services will be based on actual hours worked multiplied by the billing rates with a maximum amount not to exceed the proposed total fee.

All proposals should reflect an added allowance of \$40,000 for other related work, which may be allocated to an individual task or to separate discrete work related to this project upon mutual agreement of NFWB management and the Consultant.

NOTE: Pursuant to EFC's Architectural and Engineering Services Procurement Guidance, the NFWB intends to enter into contract negotiation with the most highly qualified firm to determine compensation that is fair and reasonable based on a clear understanding of the project scope, complexity, professional nature, and the estimated value of the services to be

rendered. To the extent that a proposing firm wishes to propose an alternative basis for compensation than described in this RFP, it may do so as part of its proposal to help streamline negotiations. All proposers should, however, provide the fee proposal outlined above as well. The final agreement on the fee will be set forth in the NFWB Board resolution selecting consultant's proposal and, in that manner, will be made part of the contract.

6. Evaluation Criteria

Proposals shall be examined and evaluated to determine whether they meet the requirements of this RFP. Proposal evaluation and contract award will be based on the following criteria:

1. Situational understanding (20 points);
2. Project approach (30 points);
3. Firm's demonstrated experience and capabilities (20 points);
4. Organization of project team and qualification, experience, availability, and location of team members (20 points); and
5. Cost (10 points).

Proposing firms may be asked to present to the Water Board or to NFWB staff and will be expected to provide prompt responses to questions and inquiries sent through the designated NFWB contact.

RFP DATED: July 22, 2025

**Appendix A: EFC's Mandatory SRF Terms and Conditions for Treatment Works and
Drinking Water Equivalency Project Funded with NYS CWSRF or DWSRF,
Revision Date 11/1/2023**



Mandatory State Revolving Fund Equivalency Project Terms and Conditions

**For Equivalency Projects Funded with NYS Clean Water State
Revolving Fund or Drinking Water State Revolving Fund**

Identify Contract Type prior to Advertisement for Bid:

☐ **Construction**

- ☐ **Treatment Works and Drinking Water Projects**
- ☐ **Non-Treatment Works**

☐ **Non-Construction**

Effective October 1, 2023

**New York State Environmental Facilities Corporation
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INTRODUCTION

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

REQUIRED CONTRACT LANGUAGE

COMMONLY USED TERMS

The following commonly used terms are defined herein as follows:

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

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

Contract means an agreement between a Recipient and a Contractor.

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

Equivalency means projects in the amount equal to the funds “directly made available” by an Environmental Protection Agency (EPA) Capitalization Grant and funding for those projects is considered federal funds, or federal financial assistance. The Equivalency designation is indicated in the Intended Use Plan.

Manufactured products means articles, materials, or supplies that have been processed into a specific form and shape or combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies. If an item is classified under Build America, Buy America as an iron or steel product, a construction material, or a section 70917(c) material under 2 CFR § 184.4(e), then it is not a manufactured product.

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

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

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

Recipient means the party, other than EFC, to a grant agreement or a project finance agreement with EFC through which funds for the payment of amounts due thereunder are being paid in whole or in part. Responsible through Project Finance Agreement (PFA) to comply with EFC requirements.

State means the State of New York.

Subcontract means an agreement between a Contractor and a Subcontractor.

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

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

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

SECTION 1 FEDERAL ARCHITECTURAL AND ENGINEERING PROCUREMENT REQUIREMENTS

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

SECTION 2 REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR FEDERAL DISADVANTAGED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR WOMEN AND MINORITY GROUP MEMBERS

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

The Disadvantaged Business Enterprises ("DBE") requirements of this section apply to construction, equipment, services, and/or supplies Contracts.

I. General Provisions

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

1. 40 CFR Part 33 ("Federal DBE Regulations") for contracts under EPA financial assistance agreements, as those terms are defined therein.
2. Title VI of the Civil Rights Act of 1964 and 40 CFR Part 7 ("Title VI") for any program or activity receiving federal financial assistance, as those terms are defined therein.
3. Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A ("Title VII") for construction contracts related to any government programs providing federal financial assistance, as those terms are defined therein.
4. 41 CFR Part 60-4 ("Federal Affirmative Action Regulations") for federal or federally assisted construction contracts in excess of \$10,000, as those terms are defined therein.
5. Section 504 of the Rehabilitation Act of 1973 ("Section 504") for any program or activity receiving federal financial assistance, as those terms are defined therein.

6. The Age Discrimination Act of 1975 ("Age Discrimination Act") for any program or activity receiving federal financial assistance, as those terms are defined therein.
 7. Section 13 of the Federal Water Pollution Control Act ("Clean Water Act") Amendments of 1972 ("Section 13") for any program or activity receiving federal financial assistance under the Clean Water Act, as those terms are defined therein.
- B. Upon request from the Recipient and/or EFC, Contractor will provide complete responses to inquiries and all DBE and EEO records available within a reasonable time or as otherwise determined by EFC.
 - C. Failure to comply with all of the requirements herein may result in a finding by the Recipient that the Contractor is non-responsive, non-responsible, and/or has breached the Contract, leading to the withholding of funds or such other actions or enforcement proceedings as allowed by the Contract.
 - D. If any terms or provisions herein conflict with Federal DBE Regulations, Title VI, Title VII, or Federal Affirmative Action Regulations, such law and regulations shall supersede these requirements.
 - E. The Contractor and Subcontractor shall not discriminate on the basis of race, color, national origin, age, disability, or sex in the performance of this Contract. The Contractor and Subcontractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Contractor and Subcontractor to carry out these requirements is a material breach of this Contract which may result in the termination of this Contract or other legally available remedies.

II. Equal Employment Opportunities (EEO)

- A. Contractors and Subcontractors shall have instituted grievance procedures to assure the prompt and fair resolution of complaints when a violation of Title VI of the Civil Rights Act of 1964 or Title 40 CFR Part 7 is alleged.
- B. For federally assisted construction Contracts, the Contractor and Subcontractor will comply with the requirements of 41 CFR § 60-1.4(b) and (c), and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor and Subcontractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- C. The Contractor shall comply with the provisions of the Human Rights Law (Executive Law Article 15), Title VI, Title VII, the Federal Affirmative Action Regulations, Section 504, Age Discrimination Act, Section 13, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and Subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
- D. Pursuant to 41 CFR § 60-1.7 for federally assisted construction Contracts, Contractor and Subcontractor will annually file an EEO-1 Report with the Joint Reporting Committee for the Office of Federal Contract Compliance Programs (OFCCP) and the Equal Employment Opportunity Commission (EEOC) according to the instructions provided at

<https://www.eeoc.gov/employers/eeo-1-survey/eeo-1-instruction-booklet>, if Contractor or Subcontractor:

1. Is not exempt from compliance pursuant to 41 CFR § 60-1.5;
 2. Has 50 or more employees;
 3. Is a prime Contractor or first tier Subcontractor; or Subcontractor below the first tier which performs construction work at the site of construction; and
 4. Has a Contract, Subcontract, or purchase order amounting to \$50,000 or more.
- E. Pursuant to 40 CFR § 7.95, the Contractor shall display a copy of the EEO notice at the project site in a visible location. The notice shall accommodate individuals with impaired vision or hearing and should be provided in languages other than English where appropriate. The notice must also identify the employee responsible for its EEO compliance. See guidance document for sample notice.
- F. For federal or federally assisted construction contracts in excess of \$10,000, the Contractor and Subcontractor will comply with the Affirmative Action Regulations and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor place affirmative action goals on Contracts and Subcontracts, as established by the United States Department of Labor. See guidance document for goals.
- G. The Contractor will include the provisions of Subdivisions II(A) and II(B) in every Subcontract in such a manner that the requirements of these subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.

III. Good Faith Efforts and Fair Share Objectives for DBEs

- A. Fair Share Objectives for this Contract are 20%
- B. Good Faith Efforts

Pursuant to 40 CFR § 33.301, the Contractor must demonstrate and document “good faith efforts” to provide meaningful participation by DBEs as Subcontractors or Suppliers in the performance of the Contract.

1. For purposes of demonstrating good faith efforts and achieving the fair share objectives established herein, the Contractor should seek out the participation of the following certified entities:
 - a. DBEs certified by the Small Business Administration (SBA), directory available at: https://web.sba.gov/pro-net/search/dsp_dsbs.cfm
 - b. DBEs certified by state DOTs on behalf of the United States Department of Transportation (USDOT), directories by state available at <https://www.transportation.gov/DBE%20State%20Websites>, including:
 - c. DBEs certified in New York State: <https://nysucp.newnycontracts.com/>
 - i. DBEs certified in New Jersey: <https://njucp.dbesystem.com/>
 - ii. DBEs certified in Connecticut: https://biznet.ct.gov/DOT_DBE/dbesearch.aspx
2. Participation of Brokers and Truckers/Haulers
 - a. Contractors cannot count the participation of a DBE who acts as a Broker or passive conduit of funds without performing, managing, or supervising the work of its contract or subcontract in a manner consistent with normal business practices. If 50% or more of the total dollar amount of a DBE’s prime contract or subcontract is subcontracted to a non-DBE, the DBE prime contractor or subcontractor will be presumed to be a Broker.
 - b. Contractors may count the participation of a DBE trucker/hauler only if the trucker/hauler is performing a “commercially useful function,” according to the following factors:

- i. The DBE must be responsible for the management and supervision of the entire trucking/hauling operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE objectives.
- ii. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

C. DBE Utilization Plan

1. The Contractor represents and warrants that Contractor has submitted a completed copy of the EFC DBE Utilization Plan with all required bid forms to the MBO no later than the execution date of this Contract.
2. The Contractor agrees to use such DBE Utilization Plan for the performance of DBEs on the Contract.
3. The Contractor further agrees that a failure to submit and/or use such DBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Recipient shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is not responsive.
4. The Contractor must report any changes to the Utilization Plan after Contract award and during the term of the Contract to the MBO. The Contractor shall indicate the changes to the Recipient in the Quarterly Report immediately following the change. See Section III(E), *Quarterly Report*. At EFC's discretion, an updated DBE Utilization Plan form and good faith effort documentation may be required to be submitted. When a change order is executed the change order and supporting documentation should be submitted to the MBO and a revised Utilization Plan may be required at EFC's discretion.
5. The Contractor shall submit copies of all fully executed subcontracts, agreements, and purchase orders that are referred to in the DBE Utilization Plan to the MBO within 30 days of their execution.

D. Submission of Good Faith Effort Documentation

1. If the Contractor, after making good faith efforts, is unable to meet the DBE fair share objectives, the Contractor must submit documentation showing good faith efforts made by the Contractor to meet the fair share objectives. Such documentation should be submitted to the MBO in accordance with the instructions on the DBE Utilization Plan.
2. If the MBO, upon review of the DBE Utilization Plan and updated Quarterly Reports determines that the Contractor is failing or refusing to comply with the good faith effort requirements or that the good faith efforts are not in the requested format, the Recipient may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within a reasonable time and provide documentation showing good faith efforts as requested.

E. Quarterly Report

1. The Contractor agrees to submit a Quarterly Report to the MBO by the fifteenth business day following the end of each calendar quarter over the term of this Contract documenting the payments made and the progress towards achievement of the DBE fair share objectives of the Contract. The Quarterly Report must be supplemented with proof of payment by the Contractor to its Subcontractors (e.g., copies of both sides of a cancelled check) and proof that Subcontractors have been paid within 30 days of receipt of payment from the Recipient. The final Quarterly Report must reflect all Utilization Plan revisions, final adjusted payments to subcontractors, and all change orders and be marked as "final".

2. The Contractor agrees to submit any other information as may be requested by the MBO or EFC during the term of the Contract as needed to assist EFC for completion of federal reporting to EPA.

F. Other Requirements

1. All contracts shall comply with the contract administration requirements outlined at 40 CFR 33.302.
2. Contractor and Subcontractors shall assist EFC and the Recipient as necessary with complying with the recordkeeping and reporting requirements outlined at 40 CFR Part 33 Subpart E.

SECTION 3 BUILD AMERICA, BUY AMERICA (BABA) ACT AND AMERICAN IRON AND STEEL (AIS) REQUIREMENTS

Applicable to all contracts for DWSRF or CWSRF Treatment Works projects.

I. BABA Requirements

The requirements of this subsection shall not apply to CWSRF or DWSRF Contracts or Subcontracts which have been notified by EFC they are waived pursuant to the Build America, Buy America Act, Pub .L. No. 117-58, section 70914, and 2 CFR Part 184, including, but not limited to, the Adjustment Period Waiver for CWSRF and DWSRF projects that initiated project design planning prior to May 14, 2022. Disregard this subsection if the Contract or Subcontract is eligible for such a waiver, however, note that Subsection II below on AIS Requirements still applies.

If such Contracts or Subcontracts are not eligible for such a waiver, then the DWSRF or CWSRF Contract or Subcontract shall be subject to the Build America, Buy America Act, and the regulations promulgated thereafter (Pub. L. No. 117-58, §§ 70901-70953, and 2 CFR Part 184), which requires, among other things, that no SRF funds “may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.”

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

The Contractor hereby represents and warrants that:

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

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by

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

II. AIS Requirements

The requirements of this section apply to (1) all contracts for which Part 1 of this section does not apply, (2) all Construction Contracts and Subcontracts for DWSRF projects and CWSRF Treatment Works projects and (3) all contracts for the purchase of iron and steel products for a DWSRF project or CWSRF Treatment Works project. Disregard this section if it does not apply to this Contract or Subcontract.

The Contractor shall submit with their bid or proposal documents an executed AIS Contractors Certification on the form attached hereto as [Attachment 3](#) acknowledging to and for the benefit of the Recipient of the Clean Water State Revolving Fund ("CWSRF") or the Drinking Water State Revolving Fund ("DWSRF") financial assistance that the Contractor understands the goods and services under this Agreement are being funded with monies made available by the New York State Environmental Facilities Corporation ("EFC") through the CWSRF or the DWSRF and that such funding is subject to certain statutory restrictions requiring that certain iron and steel products used in the project be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement.

The Contractor hereby represents and warrants that:

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

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

SECTION 4 DAVIS-BACON (DB) PREVAILING WAGE REQUIREMENTS

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

For Contracts in Excess of \$2,000:

1. Minimum Wages

Mandatory SRF Terms and Conditions for Treatment Works and Drinking Water Equivalency Project Funded with NYS CWSRF or DWSRF

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

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

- (ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the Contract shall be classified in conformance with the wage determination. The contracting officer shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination;
2. The classification is utilized in the area by the construction industry; and,
3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of

receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (1) (ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program *provided* that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account asset for the meeting of obligations under the plan or program.

2. Withholding. The Recipient shall upon its own action or upon written request of the EPA Award Official or an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any Subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the Contract, the Recipient may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR § 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Recipient. Such documentation shall be available on request of EFC or EPA. As to each payroll copy received, the Recipient shall provide written confirmation in a form satisfactory to EFC indicating whether or not the project is in compliance with the requirements of 29 CFR § 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls submitted shall set out accurately and completely all of the information

required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/agencies/whd/government-contracts/construction/forms> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all Subcontractors. Contractors and Subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Recipient, for transmission to EFC, EPA if requested by EPA, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Contractor to require a Subcontractor to provide addresses and social security numbers to the prime Contractor for its own records, without weekly submission to the Recipient (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or Subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

1. That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5(a)(3)(i), and that such information is correct and complete;
2. That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The Contractor or Subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Recipient, EFC, EPA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or Subcontractor fails to submit the required records or to make them available, the Recipient, EFC, or EPA may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

4. Apprentices and trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90

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

- (ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

5. Compliance with Copeland Act Requirements. The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

6. Subcontracts. The Contractor or Subcontractor shall insert in any Subcontracts the clauses contained in 29 CFR § 5.5(a)(1) through (10) and such other clauses as the Recipient may by appropriate

instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any Subcontractor or lower tier subcontractor with all the Contract clauses in 29 CFR § 5.5.

7. Contract Termination: Debarment. A breach of the contract clauses in 29 CFR § 5.5 may be grounds for termination of the Contract, and for debarment as a Contractor and a Subcontractor as provided in 29 CFR § 5.12.
8. Compliance with Davis–Bacon and Related Act requirements. All rulings and interpretations of the Davis–Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.
9. Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its Subcontractors) and the Recipient, the U.S. Department of Labor, or the employees or their representatives.
10. Certification of eligibility.
 - (i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - (ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. § 1001.

For Contracts in Excess of \$100,000:

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

4. Subcontracts. The Contractor or Subcontractor shall insert in any Subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any Subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.
5. In any Contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR § 5.1, the Contractor or Subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the records to be maintained under this paragraph shall be made available by the Contractor or Subcontractor for inspection, copying, or transcription by authorized representatives of the Recipient and the Department of Labor, and the Contractor or Subcontractor will permit such representatives to interview employees during working hours on the job.

SECTION 5 REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT

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

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

In addition, the Contractor and any Subcontractors have not been debarred from or deemed ineligible for Government contracts or federally assisted Construction contracts pursuant to Executive Order 12549.

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

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

SECTION 6 RESTRICTIONS ON LOBBYING

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

The Contractor and any Subcontractor bidding or proposing a Contract or Subcontract in excess of \$100,000 shall submit with their bid or proposal documents an executed Certification Regarding Lobbying pursuant to 40 CFR Part 34 ("Lobbying Certification") in the form attached hereto as [Attachment 4](#), consistent with the prescribed form provided in Appendix A to 40 CFR Part 34.

SECTION 7 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

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

This prohibition is effective for obligations and expenditures of EPA financial assistance funding on or after 8/13/2020.

As required by 2 CFR 200.216, EPA recipients and subrecipients, including borrowers under EPA funded revolving loan fund programs (Recipients), are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). EPA funds may not be used to purchase:

- a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- b. Telecommunications or video surveillance services provided by such entities or using such equipment.
- c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Consistent with 2 CFR 200.471, costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances:

- a. Obligating or expending EPA funds for covered telecommunications and video surveillance services or equipment or services as described in 2 CFR 200.216 to:
 - (1) Procure or obtain, extend or renew a contract to procure or obtain;
 - (2) Enter into a contract (or extend or renew a contract) to procure; or
 - (3) Obtain the equipment, services, or systems.

Contractors and Subcontractors shall not procure or install prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, that are recorded in the System for Award Management exclusion list located at <https://sam.gov/SAM/>.

SECTION 8 CONSTRUCTION SIGNS

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

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

ATTACHMENTS (Required Forms)

Attachment 1 – EFC DBE Utilization Plan



Environmental Facilities Corporation

NYS Environmental Facilities Corporation Disadvantaged Business Enterprise (DBE) Utilization Plan

Instructions for Contractors & Service Providers:

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

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

DBEs on this form may include disadvantaged firms certified by the [New York State Unified Certification Program \(NYSUCP\)](#), and disadvantaged firms certified by the Small Business Administration. In addition, the participation of DBEs will be credited according to the following requirements:

- Contractors cannot count the participation of a DBE who acts as a broker or passive conduit of funds without performing, managing, or supervising the work of its contract or subcontract in a manner consistent with normal business practices. If 50% or more of the total dollar amount of a DBE's prime contract or subcontract is subcontracted to a non-DBE, the DBE prime contractor or subcontractor will be presumed to be a broker.
- Contractors may count the participation of a DBE trucker/hauler only if the trucker/hauler is performing a "commercially useful function," according to the following factors:
 - The DBE must be responsible for the management and supervision of the entire trucking/hauling operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE objectives.
 - The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

See the [Mandatory Equivalency Terms and Conditions](#) or consult your designated MBO for further guidance.

Instructions for Minority Business Officers (MBO):

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

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

If the Utilization Plan will not meet or exceed the DBE fair share objective, then the good faith effort documentation noted in Section 4 must be submitted with this form.

**NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan**

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

SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION				
Firm Name:			Contract Type: <input type="checkbox"/> Construction <input type="checkbox"/> Other Services	
Is the Prime Firm certified as a DBE? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please include Prime information in Section 3.				
Address:		Phone #:	Fed. Employer ID #:	
Description of Work:			Email:	
Award Date:	Start Date:	Completion Date:	DBE Fair Share Objective	PROPOSED DBE Participation
Total Contract Amount: \$ DBE Eligible Contract Amount: \$ (DBE Fair Share Objectives are applied to this amount and includes all change orders, amendments, & specialty waivers)			Total: 20% \$	Total: % \$
If fair share objectives are not met, documentation must be attached: <input type="checkbox"/> No Participation <input type="checkbox"/> Short of the DBE Fair Share Objective				
<input type="checkbox"/> Specialty Equipment/Services: must be of SIGNIFICANT cost – attach list of cost and type of equipment and good faith effort documentation				

**NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan**

SECTION 3: DBE SUBCONTRACTOR INFORMATION			
This Submittal is:	<input type="checkbox"/> The First/Original Utilization Plan <input type="checkbox"/> Revised Utilization Plan #:		
DBE Subcontractor Information		Contract Amount	For EFC Use:
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____	Start Date: Completion Date:		
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____	Start Date: Completion Date:		
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____	Start Date: Completion Date:		
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____	Start Date: Completion Date:		
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____	Start Date: Completion Date:		

**NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan**

SECTION 3: DBE SUBCONTRACTOR INFORMATION continued			
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____	Start Date: Completion Date:		
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____	Start Date: Completion Date:		
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____	Start Date: Completion Date:		
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____	Start Date: Completion Date:		
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____	Start Date: Completion Date:		

**NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan**

SECTION 4: GOOD FAITH EFFORT DOCUMENTATION

Utilization Plans that do not meet the Fair Share Objective must be accompanied by the documentation requested in numbers 1 – 7, as listed below. Specialty Equipment Exclusion requests must be accompanied by the documentation requested in number 8 – 12, as listed below. Specialty Services Exclusion requests must be accompanied by the documentation requested in number 13, as listed below. Please contact the MBO and/or EFC for assistance or to request sample documentation.

Provide the following:

1. A letter of explanation detailing the scope of work, DBE search results, and results of good faith efforts that were made.
2. A scope of work that shows what subcontracting opportunities are in the contract. This could be an engineering proposal, schedule of values, or other similar documents.
3. Screenshots of search results (using commodity codes) from [DBE Directories](#) of all certified DBEs that were solicited for purposes of complying with your DBE fair share objective. Each search should be saved as an individual file.
4. [A log of solicitation results](#), consisting of the list of DBE firms solicited for the contract and the outcome of the solicitations. The log should be broken out into separate areas for each task that is solicited (e.g., trucking, materials, electricians). The log should show that each firm was contacted twice by two different methods (e.g., email and phone); who was spoken to; what was said; and the final outcome of the solicitation.
5. List of the general circulation, trade association, and DBE oriented publications and dates of publication soliciting for certified DBE participation as a subcontractor/supplier and copies of such solicitations.
6. Description of the negotiations between the contractor and certified DBEs for the purposes of complying with the DBE goals of this contract.
7. Any other information deemed relevant to the request.

EFC and the MBO reserve the right to request additional information and/or documentation.

Documentation for Requests for Specialty Equipment Exclusions:

8. A letter of explanation containing information about the equipment, why the equipment is specialty and why no DBE firms could be utilized to provide the equipment.
9. Copies of the appropriate pages of the technical specification related to the equipment showing the choices for manufacturers or other information that limits the choice of vendor.
10. Letter, email, or screenshot of website from the manufacturer listing their distributors in NYS and the locations.
11. Screenshots of DBE Directory searches for the manufacturer and distributor showing that they are not found in the Directory.
12. An invoice or executed purchase order showing the value of the equipment.

**NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan**

Documentation for Requests for Specialty Service Exclusions:

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

SIGNATURE

Electronic Signature of Contractor: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and that all DBE subcontractors will participate in subcontracts in accordance with the requirements of 40 CFR Part 33.

Name (Please Type):

Date:

Attachment 2 – BABA Contractor’s Certification



Environmental Facilities Corporation

BABA CONTRACTOR CERTIFICATION

FOR EQUIVALENCY CONSTRUCTION CONTRACTS PAID FOR WITH FUNDS THROUGH
THE NYS CLEAN WATER STATE REVOLVING FUND, OVERFLOW AND STORMWATER GRANTS
OR

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

Project Title: _____

Contractor's Name: _____

Contract ID: _____

SRF Project No.: _____

SRF Recipient Name: _____

I certify that all iron and steel, manufactured products and construction materials permanently incorporated into the project under this construction contract will be and/or have been produced in the United States, in accordance with the requirements of the United States Environmental Protection Agency and Pub. L. No. 117-58 and any regulations promulgated thereunder. I will develop and maintain the necessary documentation to demonstrate that the applicable products permanently incorporated into the project were produced in the United States and make such documentation available to The New York State Environmental Facilities Corporation or their authorized representatives, upon request.

Signature: _____

Name (print): _____

Title: _____

Date: _____

Attachment 3 – AIS Contractor’s Certification



Environmental Facilities Corporation

AIS CONTRACTOR CERTIFICATION
FOR CONSTRUCTION CONTRACTS FUNDED THROUGH
THE NYS CLEAN WATER STATE REVOLVING FUND, OVERFLOW AND STORMWATER GRANTS
OR
THE NYS DRINKING WATER STATE REVOLVING FUND VIA THE
NYS ENVIRONMENTAL FACILITIES CORPORATION

Project Title: _____

Contractor's Name: _____

Contract ID: _____

SRF Project No.: _____

SRF Recipient Name: _____

I certify that the iron and steel products permanently incorporated into the public water system or wastewater treatment works project under this construction contract will be and/or have been produced in the United States, in accordance with the requirements of the United States Environmental Protection Agency and 33 U.S.C. § 1388, 42 U.S.C. § 300j-12(a)(4) and any regulations promulgated thereunder. I will develop and maintain necessary documentation to demonstrate that the iron and steel products permanently incorporated into the project were produced in the United States, and make such documentation available to The New York State Environmental Facilities Corporation or their authorized representatives, upon request.

Signature: _____

Name (print): _____

Title: _____

Date: _____

Attachment 4 – Lobbying Certification



Environmental Facilities Corporation

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

SRF Project No.: _____
Recipient: _____
Project Description: _____

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

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

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

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

Appendix B: NFWB Request for Proposals Standard Terms and Conditions Rev. 20250722

APPENDIX B

NFWB REQUEST FOR PROPOSALS (“RFP”) STANDARD TERMS, CONDITIONS, AND REQUIREMENTS

Except as otherwise may be agreed to in writing, the following standard terms, conditions, and requirements shall form a part of any contract between the Niagara Falls Water Board and a proposer that responds to the Request for Proposals (“RFP”):

A. Statement of Qualifications

Proposers must submit a statement of qualifications that provides a description of proposer’s business structure, licensing, years in business, any experience with providing similar services along with the project description (including contact information for references), locations, description of key personnel for this project, and any other pertinent information that will help to demonstrate proposer’s qualifications to perform. The statement of qualifications must also include the following:

1. Any other names under which proposer has done business in the past 10 years;
2. List all subsidiary and parent companies;
3. State whether proposer ever has been:
 - Debarred or suspended by any government entity from entering contracts with it;
 - Found not responsible by any government entity;
 - Declared in default or terminated for cause from any contract, or had any contract cancelled for cause; or
 - Required to pay liquidated damages on a contract.
4. State whether proposer has filed for bankruptcy or been the subject of an involuntary bankruptcy proceeding; and
5. State whether proposer has been a party to any legal action or government investigation related to proposer’s business practices, or alleging that any of proposer’s agents or employees committed any act of fraud, collusion, bid rigging, price fixing, or bribery. If proposer, any of proposer’s principals, or any of proposer’s agents has pleaded guilty or entered into a consent order in connection with respect to any of these, provide details.

B. General Conditions of RFP

The issuance of this RFP does not commit the Water Board to award a contract or to pay any costs incurred by proposers in the preparation of proposals or for any work performed in connection therewith. In addition, the Water Board reserves the following rights:

1. To postpone or cancel this RFP;
2. Reject any or all proposals received in response to this RFP;
3. Award a contract without any discussion with proposers;
4. Retain a successful proposer for only a portion of the scope of services;
5. Accept a proposal other than the proposal offering the lowest price;
6. Waive or modify any irregularities in proposals received;
7. Consider proposals or modifications received at any time before the award is made, if such is in the best interest of the Board;
8. Request clarification and/or additional information from the proposers during the evaluation process; and

9. Utilize any and all ideas submitted in the proposals received, unless those ideas are covered by legal patent or proprietary rights and the patent or proprietary rights are clearly and specifically set forth in the proposal.

C. Proposal Firm and Irrevocable for 30 Days

A signed proposal shall be considered a firm offer on the part of the proposer, and the Water Board may insist on the strict performance of all elements of the proposal, unless the Water Board specifically waives a proposal element in writing during negotiations. By submitting a proposal, proposer agrees that its offer is firm for a period of 30 days from the deadline for proposal submissions, as may be amended or extended by way of an addendum to this RFP.

D. Oral Presentations or Interviews

Prior to award, one or more proposers may, in the sole discretion of the Niagara Falls Water Board, be invited to offer a presentation to Water Board staff and/or to the Board of Directors. The authorized Water Board contact will schedule the time and location of these presentations. Proposer shall bear all of its own costs for any such presentations or interviews.

E. Contract Negotiations

Upon selection, the successful proposer may be invited to negotiate a contract with the Water Board, though the Water Board reserves the right to award a contract on the basis of the initial offers received, without discussions. Therefore, each initial offer should contain the proposer's best terms from a technical and cost standpoint.

The Water Board reserves the right to enter into discussions/negotiations with one or more proposers and to request the submission of best and final offers from those proposers, who after the conclusion of such discussions/negotiations, still are under consideration for award. No proposer shall have any rights against the Water Board arising from an invitation to enter into discussions/negotiations or to submit a best and final offer.

Unless otherwise agreed, the contents of the selected proposal and any modifications agreed upon in writing during negotiations, together with the RFP, will be incorporated into and made part of the final contract. Should negotiations fail to result in a signed contract within a reasonable period of time as defined by the Water Board, the Water Board reserves the right to terminate negotiations and select another proposer, issue a new RFP, or take any other action consistent with the best interests of the Water Board.

F. Exceptions to RFP

The contract to be entered into shall include the requirements of this RFP among its terms and conditions, with such changes to which the Water Board may agree. Submission of a proposal constitutes consent to these terms and conditions. Any exceptions must be explicitly stated in the proposal and separately listed in a separate attachment to the body of the proposal entitled "Exceptions." Failure to list exceptions separately in the "Exceptions" attachment shall be deemed to constitute consent to all such terms and conditions herein and shall constitute a binding waiver by the proposer of all exceptions not listed. A general exception or reservation to the legal or technical terms and conditions shall be deemed a nullity and may also result in the Water Board rejecting the proposal as non-responsive.

G. Rely Only Upon Formal Information

1. The Water Board shall not be bound by any oral or written information released prior to the issuance of the RFP.
2. The Water Board shall not be bound by any oral or written representations, statements, or explanations other than those made herein, in Water Board written responses to proposer inquiries, or in formal written addenda to this RFP.

H. Questions Regarding the RFP

1. All inquiries regarding this RFP shall be emailed to the authorized Water Board contact by the date and time indicated on the cover page of this RFP. The subject line for such inquiries should indicate the RFP name and number.
2. Compiled questions and responses usually will be posted on the Water Board's website at <https://nfwb.org/reports/procurements/> on or after the date indicated on the cover page of the RFP, but to receive these responses as early as possible, you must email the authorized Water Board contact to ask to be placed on the distribution list for this RFP.

I. Addenda to the RFP

3. The Water Board shall issue responses to inquiries related to substantive issues and any other corrections or amendments to the RFP that it deems necessary prior to the proposal due date in the form of written addenda. Such addenda usually will be posted on the Board's website: <https://nfwb.org/reports/procurements/>, and the Water Board will use its best efforts to send copies to those who have asked to be placed on the distribution list for this RFP.
4. It is the proposer's responsibility to assure receipt of all addenda. The proposer should verify with the authorized Water Board contact prior to submitting a proposal that all addenda have been received. Proposers shall acknowledge the number of addenda received as part of their proposals using this Appendix's Form No. 1.

J. Proposal Package Submission Requirements

See instructions on cover page of RFP.

K. Personnel

If awarded a contract, proposer agrees to provide adequate and competent personnel to fulfil its contractual obligations, with said personnel having the necessary licensing, education, training, and experience in the specialties that are necessary to perform proposer's obligations. Proposer agrees that its personnel, including sub-contractors, shall comply with any credentialing, security, badge, orientation, safety, or other requirements, procedures, or protocols as the Water Board may from time-to-time establish.

L. Insurance

Proposer 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 any contract that results from this RFP, whether performed by the proposer or its subcontractors. Before proceeding

with any work under the contract that may result from this proposal, the successful proposer 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; and
6. Umbrella/Excess Liability: A minimum of \$5,000,000 on a per occurrence and aggregate basis; this shall be in excess of primary general, automobile and employer's liability limits.
7. Professional Liability/Errors and Omissions: \$2,000,000 (identified as a claim made or an occurrence policy) (required only if professional services are to be performed pursuant to the contract).

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

M. Indemnification and Waiver of Subrogation

The successful proposer, to the full extent permissible by New York law, must agree 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 negligent action or inaction of the proposer or its representatives or agents or subcontractors in performance of the contract resulting from this RFP 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 successful proposer 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 appendix or in the resulting contract, or any other insurance applicable to the operations of the proposer and/or its subcontractors in the performance of the contract.

N. Coordination and Cooperation with Third Parties

Proposer agrees and acknowledges that if the contract calls for work on Water Board property, there may be other ongoing projects on site for all or part of proposer's performance. The Water Board or its representative will take reasonable steps to avoid any conflicts between work performed by proposer and any third party, but proposer shall be responsible for actively communicating and cooperating with the Water Board's representative and any third party, including but not limited to other contractors or subcontractors of the Water Board, as necessary to ensure coordination of performance of services.

O. Safety and Site-Specific Safety Plan

Proposer shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work to be performed by proposer, and shall take all necessary precautions for the safety and protection of all persons who may be affected by the work of proposer or its subcontractors. If requested by the Water Board, prior to the commencement of work, proposer agrees that it shall submit to the Water Board or its representative copies of a Safety Program and Site-Specific Health & Safety Plan. The Safety Program shall describe proposer's overall safety policy, regulatory compliance plan, and applicable safety standards. The Site-Specific Health & Safety Plan shall identify the project work scope, contain a safety hazard analysis for the associated contract tasks, and include the following:

- specific safety procedures appropriate and necessary to complete the work;
- personal protective equipment to be used by proposer or its subcontractors for associated project tasks;
- documentation that proposer and its subcontractors are in compliance and current with required OSHA training; and
- a description of the frequency and types of air monitoring, personnel monitoring and instrumentation to be used, if any.

The proposer's equipment and method of operation shall be in full compliance with OSHA Standards and satisfy all Federal, State and Local Health & Safety regulations. The Water Board may but is not obligated to provide proposer with comments on the Safety Program and Site-Specific Health & Safety Plan, but in no event does the Water Board assume responsibility

for the adequacy or completeness of these plans or for adherence by proposer or proposer's subcontractors to the same.

P. Independent Contractor and Identification of Subcontractors

The successful proposer and its employees will operate as an independent contractor and are not considered Water Board employees. Proposer must identify its subcontractors, if any, in its proposal, but award of a contract shall not create any relationship between the subcontractors and Water Board, and proposer shall be responsible for the entire contract. The Water Board shall have the right to reject any proposed subcontractors.

Q. Successors and Assigns

Any contract resulting from this RFP shall inure to the benefit of and be binding upon the legal representatives and successors of the parties, respectively, but the successful proposer may not assign the contract without the Water Board's written permission.

R. 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 proposer shall specifically identify any portions of the documents submitted with the 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 proposer to be confidential/proprietary shall be easily separable from the non-confidential/non-proprietary sections of the 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. Proposers should be aware that any and all terms of their respective proposals may be the subject of discussion at Board of Directors meetings that are open to the public.

S. Records

If awarded a contract, proposer shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under the 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 proposer 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 proposer 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.

T. Compliance with Breach Notification and Data Security Laws

Proposer agrees that if awarded a contract to perform work for the Water Board it 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.

U. Prevailing Wage and Workforce Reporting

Proposer shall pay prevailing wages as required by law for any work performed for the Water Board in connection with this proposal, and per New York Executive Law and Executive Order Number 162, proposer and any of its subcontractors may be required to submit a quarterly Workforce Employment Utilization Report in the format provided by the Water Board reflecting the entirety of proposer and its subcontractors' workforces performing work on the contract and located within New York State, as well as the salaries of any such employees.

V. Payment Terms and Requirements

If awarded an agreement, proposer 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 proposer 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 proposer, 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.

W. Exemption from Sales Tax

The Water Board is exempt from state and local fees, taxes, franchise taxes, sales taxes or other excise taxes. Proposals shall not include any such taxes or fees.

X. Non-Discrimination and Prohibition Against Sexual Harassment

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 proposer will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, or marital status. By submitting a proposal, proposer agrees that 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 this proposal, each proposer and each person signing on behalf of any proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that the proposer 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. The proposal must include the Statement on Sexual Harassment form at this Appendix's Form No. 5.

Y. Iran Divestment Act

By submitting a proposal in connection with this RFP or by assuming the responsibility of a contract awarded hereunder, proposer certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerors pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>. Proposer further certifies that it will not utilize in connection this contract any subcontractor that is identified on the Prohibited Entities List.

Z. 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, that by submitting a proposal or by assuming the responsibility of a contract awarded hereunder, proposer agrees, as a material condition, that neither the proposer 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 proposer, or any of the aforesaid affiliates of proposer, 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 proposer's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The proposer shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR 105.4).

AA. MacBride Fair Employment Principles

In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), by submitting a proposal or by assuming the responsibility of a contract awarded hereunder the proposer hereby stipulates that the proposer 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.

BB. Prohibition on Purchase of Tropical Hardwoods

The proposer 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 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 proposal 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.

CC. Conflicts of Interest and Prohibition on Political and Religious Activity

By submitting a proposal or by assuming the responsibility of a contract awarded hereunder, proposer 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 proposer and the Water Board. Proposer 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. Proposer agrees that its provision of services under any contract that may result from this RFP 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 any contract that may result from this RFP be used for such purposes. The proposer further agrees that if awarded an agreement as a result of this RFP, there shall be no religious worship, instruction, or proselytizing as part of or in connection with the proposer's provision of services under that contract, nor shall any of the funds provided under this agreement be used for such purposes.

DD. Non-Collusion

Proposer must submit a signed statement of non-collusion on the form that is this Appendix's Form No. 2.

EE. Communication with Water Board and Lobbying Law.

Proposers are advised that, from the date this RFP is issued until the award of the contract, no contact by proposers or their agents with the Water Board or Water Board personnel related to this RFP is permitted, except as shall be authorized by the authorized Water Board contact indicated on the cover page of this RFP.

Pursuant to State Finance Law Sections 139-j and 139-k, this RFP 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 RFP 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 RFP. The designated contact is identified on the cover page of this RFP. 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.

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

FF. Waiver of Immunity

As a condition of any contract award, the proposer 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.

GG. Termination

The following terms shall apply to any contract entered into as a result of this request for proposals:

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.

HH. 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.

II. Service of Process and Notices

In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), proposer agrees that if awarded a contract it consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon proposer'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. Proposer 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. Proposer 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.

JJ. No Waiver of Rights

No failure or delay (in whole or in part) on the part of either the Water Board or proposer to exercise any right or remedy pursuant to the terms and conditions herein 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.

KK. Standard of Care

Proposer agrees to perform all services provided pursuant to the contract that results from this RFP in accordance with the degree of professional skill and care ordinarily provided by members of the same profession performing similar services for projects of a

similar size, type, and complexity in the same or similar locality and under similar circumstances.

APPENDIX B, FORM No. 1

ACKNOWLEDGEMENT OF ADDENDA

RFP TITLE: _____
(Write the RFP 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 RFP:

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 RFP INITIAL HERE

DATE: ____/____/____

PROPOSER (SIGNATURE): _____

PROPOSER (NAME): _____

PROPOSER (FIRM): _____

APPENDIX B, FORM No. 2

CERTIFICATE OF NON-COLLUSION

Pursuant to New York State Public Authorities Law, Article 9, Title 4, Section 2878, the undersigned proposer hereby subscribes and affirms as true, under the penalties of perjury, the following statement of non-collusion:

By submission of this proposal, each proposer and each person signing on behalf of any proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his/her knowledge and belief:

- (1) The prices in this proposal 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 proposer or with any competitor;
- (2) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to opening, directly or indirectly, to any other proposer or to any competitor; and,
- (3) No attempt has been made or will be made by the proposer to induce any other person, partnership, or corporation to submit or not to submit a proposal for the purpose of restricting competition.

DATE: ____/____/____

PROPOSER (SIGNATURE): _____

PROPOSER (NAME): _____

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 B, 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 RFP 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 entity¹ 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 blank 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.

NOTICE OF NFWB'S RIGHT TO TERMINATE

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 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.

Proposer's Affirmation and Certification

By signing below, the Proposer:

- a) Affirms that the Proposer understands and agrees to comply with the policy regarding permissible contacts in accordance with New York State Finance Law Sections 139-j and 139-k.
- b) Certifies that all information provided to the NFWB with respect to New York State Finance Law §139-j and §139-k is complete, true and accurate.

DATE: ____/____/____

PROPOSER (SIGNATURE): _____

PROPOSER (NAME): _____

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 B, FORM No. 4

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

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

- 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. Proposer and 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: ____/____/____

PROPOSER (SIGNATURE): _____

PROPOSER (NAME): _____

PROPOSER (FIRM): _____

**STATEMENT ON SEXUAL HARASSMENT
PURSUANT TO STATE FINANCE LAW § 139-1**

DATE: ____/____/____

PROPOSER (FIRM): _____

STATE OF _____)
) ss.:
COUNTY OF _____)

Notary Public

APPENDIX B, FORM No. 6

**REQUEST FOR PROPOSALS
ACKNOWLEDGEMENT AND CERTIFICATION**

As a duly-authorized representative of the proposer indicated below, I hereby acknowledge that by submitting a proposal in connection with

_____,
(write RFP Number and Title)

proposer has made a firm offer and agrees to be bound by its terms. Proposer has carefully read the RFP and all addenda, and in submitting this proposal acknowledges proposer understands and agrees to be bound by the requirements set forth in the RFP, except as explicitly stated on a separate sheet attached to this proposal and entitled "Exceptions." Proposer agrees and understands that the terms and conditions set forth in the RFP addenda shall be incorporated into any contract or agreement awarded in connection with this RFP, and agrees to be bound by those terms and conditions.

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 proposal is full, complete, and truthful.

DATE: ____/____/____

PROPOSER (SIGNATURE): _____

PROPOSER (NAME): _____

PROPOSER (FIRM): _____

STATE OF _____)
COUNTY OF _____) ss.:

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 C: Sample Short-Form Agreement

SHORT-FORM AGREEMENT: WWTP PRELIMINARY ENGINEERING REPORT

This short-form agreement is made by and between the **Niagara Falls Water Board** (“**Water Board**”) and **Firm Full Name (“Firm Short Name”)**, effective as of **DATE** (the “Agreement”).

Article I. AUTHORIZED SERVICES

The Water Board issued request for proposals No. 2025-01 for WWTP Preliminary Engineering Report (“the RFP”). **FirmName** submitted a proposal dated **August 8, 2025** to perform the requested scope of services for the project as described in the RFP and in **FirmName’s** proposal. On **August __, 2025** the Water Board, through Resolution **2025-08-001**, accepted **FirmName’s** **August 8, 2025** proposal to perform the requested scope of services for a total fee not to exceed \$**_____**.

Article II. CONTENTS OF AGREEMENT

The following appendices are hereby incorporated into this Agreement and made part hereof, with the parties agreeing to be bound by their terms and conditions and to perform the scope of work and to pay the compensation set forth therein:

- Appendix 1: Water Board Resolution **2025-08-001**;
- Appendix 2: Water Board Request for Proposals No. 2025-01, WWTP Preliminary Engineering Report. Incorporated into this Agreement as part of Appendix 2 are the Mandatory SRF Terms and Conditions for Treatment Works and Drinking Water Equivalency Project Funded with NYS CWSRF made part of the RFP as Appendix A and the NFWB RFP Standard Terms, Conditions, and Requirements made part of the RFP as Appendix B;
- Appendix 3: **FirmName’s** Proposal dated **August 8, 2025**;

In the event of a conflict between the terms of this Agreement and its appendices, the term in the Agreement shall control, and if the conflict is in the terms of an appendix, the appendices shall have precedence in the order of their attachment (e.g., a term in Appendix 1 controls over a conflicting term in Appendix 2). All laws, rules, and regulations required to be included in this Agreement are hereby deemed incorporated herein, and this Agreement shall be read and enforced as though they were included herein. If through mistake, or otherwise, any such required provision is not inserted, or if not correctly inserted, then upon application of either party, the Agreement shall be physically amended to make such insertion as if originally attached or inserted. Performance under the terms and conditions of this Agreement shall be subject to and in conformance with all applicable laws.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives.

NIAGARA FALLS WATER BOARD

FIRM FULL NAME

BY: _____
Sean W. Costello, Executive Director

BY: _____
Name, Title