Request for Proposals

Streetscape Design Improvements
City of Watertown, NY

Submissions Due: December 18, 2020
INTRODUCTION

The City of Watertown is requesting proposals from qualified firms to provide design services focused on improving the streetscape and pedestrian environment on segments of Franklin Street, Court Street and Coffeen Street in downtown Watertown. The emphasis will be to create a distinct “sense of place” that will make the public realm more inviting to pedestrians and strengthen the downtown business environment.

The chosen firm will ideally have a strong urban design background with demonstrated previous experience in placemaking. Additionally, a licensed professional engineer, architect or landscape architect must certify final design and construction documents.

PROJECT DESCRIPTION

The City of Watertown strives to encourage pedestrian activity downtown, preserving its historic character while providing vibrant, welcoming public spaces that complement the diversity of surrounding land uses. The existing streetscapes bear many scars of urban renewal, which prioritized the automobile over other modes, and to the detriment of aesthetics and the urban fabric.

The successful project, when implemented, will create unique visual identities on the subject streets and support the downtown as a destination in its own right, not merely as a thoroughfare. This project will continue the process of reclaiming downtown Watertown from the automobile, and make it a place for people once again.

Improvements, once complete, would help to achieve the following goals:

- Slow vehicular traffic
- Enhance pedestrian comfort, safety and access
- Enhance bicycle comfort, safety and access
- Provide complete ADA accessibility
- Improve pedestrian level lighting
- Identify locations for public art
- Strengthen economic vitality
- Provide outdoor space for dining and business
- Assure safe, clearly identified, consistent parking options

An additional priority will be enhancing the Roswell P. Flower monument in the median of Washington Street, a two-way radial arterial street that emanates south from Public Square. As a historic piece of public art, erected in 1902, the statue is notable landmark in downtown Watertown. However, its location makes it vulnerable to vehicular crashes, and the City seeks
design improvements that will safeguard the monument from surrounding traffic flows while preserving its historic character and its placemaking role in its current setting.

One other opportunity for evaluation is Lachenauer Plaza, an underutilized flatiron park at the confluence of Arsenal and Court Streets, and whether any opportunities exist within the scope of this project to activate that space and enhance its role in the public realm.

BACKGROUND

The City of Watertown, with a population of 26,057 (2018 American Community Survey five-year estimate), is the principal city of the Watertown-Fort Drum, NY Metropolitan Statistical Area, and the urban core of Jefferson County (population 114,448; 2018 ACS five-year estimates). Comprising 9.4 square miles, the City is located on the banks of the Black River in New York State’s North Country region, near the Canadian border.

Watertown’s first landowners donated the land now known as Public Square in 1805, and fashioned the area as a New England-style commons to cultivate a central business district. Franklin Street and Court Street are both radial streets that emanate from Public Square. Coffeen Street spurs off from Court Street at the western edge of downtown, connects to Interstate 81, and points farther west.

Franklin Street is a two-way collector street that connects Public Square to Thompson Park, a 355-acre park in the southeast section of the City. The segment of Franklin Street within the project area carries approximately 2,000 average annual daily trips (AADT), characterized by zero-foot setbacks for the first 500 feet extending out from Public Square, with a mix of office, commercial and residential uses.

Court Street is a one-way arterial that travels northwest from Public Square to Massey Street North and the Court Street Bridge, which crosses the Black River to the City’s north side. Court Street also contains a mix of office, commercial and residential uses, carrying just less than 7,000 AADT, characterized by zero-foot setbacks on one side and nearly 600 linear feet of surface parking on the other side. The parking serves a building that fronts on Arsenal Street and is thus oriented at an awkward 45-degree angle to Court Street. This building will be the future home of the new Watertown Family YMCA Community and Aquatics Center.

Coffeen Street is a two-way arterial that spurs off from the far western end of Court Street and extends to Interstate 81 and beyond to points west. Only a small, 550-foot segment of Coffeen Street is within the defined project area. This segment carries approximately 4,700 AADT and its most prominent land uses are a five-story apartment building and a large surface parking lot that are directly across the street from one another.
The bronze Roswell P. Flower monument weighs approximately 20,000 pounds (a 4,000-pound statue atop a 16,000-pound granite pedestal) with an aggregate height of 18 feet. Its total cost was $50,000 in 1902 dollars. A 2003 restoration included two granite eagles, each weighing 800 pounds, as well as a series of small bollards that guard the monument, which rests on a grassed median island in the center of Washington Street. This segment of Washington Street carries approximately 12,400 AADT.

In 2008, the City of Watertown completed the Public Square Streetscape Enhancement and Reconstruction Project, which brought infrastructure upgrades and streetscape enhancements to downtown Watertown. As the nexus of Watertown’s road network, Public Square invariably affects the radial streets that emanate in and out of downtown, and vice versa.

In 2017, the City of Watertown received $10 million in funding through New York State’s Downtown Revitalization Initiative (DRI). After completing a strategic planning process, a streetscape project identified in the final plan received $1.6 million in funding from the Department of State (DOS) in late 2018.

SCOPe OF WORK / PROJECT DELIVERABLES

1. Existing Conditions Analysis

The chosen firm will undertake an analysis of existing conditions that will examine the strengths and weaknesses of current design styles, materials and maintenance requirements. The existing conditions analysis should also evaluate the current streetscape in meeting the changing social, cultural and commercial needs of the project locations, as well as the above-stated project goals.

Deliverable: Existing Conditions Report.

2. Topographic Survey

The chosen firm will undertake a topographic survey of the defined project area for use as the base map of the final designs. The survey should include topographic data, including one-foot contours and spot elevations as appropriate, the size and location of all existing above-ground and below-ground utilities, all existing features, buildings, rights-of-way, easements, etc.

Deliverable: Topographic survey drawing.
3. Draft Designs

The chosen firm will prepare draft designs for streetscape improvements based upon the conceptual designs from the City of Watertown’s Downtown Revitalization Initiative (DRI) Strategic Investment Plan. Assessments of traffic flows, the walkability of the target design area, other available documents and public input shall also inform the design process. The conceptual designs should also further the goals of the City’s Comprehensive Plan. The conceptual-level plan will propose pedestrian-friendly designs for each of the three subject streets that will mitigate or reverse the remaining detrimental effects of urban renewal. The draft design shall include all required maps, tables, data, written discussions and any other pertinent information.

When exploring design concepts for Court Street, specific potential treatments that should receive evaluation include reverse angled parking, parallel parking on each side of the street and a conversion to two-way vehicular traffic. If the evaluation reveals significant benefits from any of these treatments, the draft design for Court Street should incorporate them as appropriate.

**Deliverable:** Draft conceptual designs for streetscape improvements and supporting materials.

4. Stakeholder Feedback

The chosen firm shall provide the draft designs to City Staff, DOS and the public for review. The proposal must include a strategy for public engagement that addresses the challenges resulting from COVID-19 and the impracticality of large, in-person gatherings. Comments from DOS, City Staff and the public must be addressed to the satisfaction of DOS in subsequent revisions of the final design.

**Deliverable:** Engagement completed with DOS, City Staff, the public and any other relevant identified stakeholders.

5. Final Designs

The chosen firm shall incorporate the feedback obtained during the engagement process into the final construction documents for streetscape improvements. Topics and treatments to consider shall include, but not be limited to, site preparation, drainage, sidewalks, curbing, walkway paving, railings, lighting, landscaping, tree planting and public art. The City envisions streetscape improvements to occur primarily in the area located between the curb and building face, although the City will consider improvements across the roadway cross-section.

**Deliverable:** Final design and construction drawings, plans, specifications and cost estimates. A licensed professional engineer, architect or landscape architect must certify these documents.
6. Required Approvals and Documentations

The chosen firm shall be responsible for obtaining all necessary approvals, including, but not limited to all required documentation from the New York State Historic Preservation Office (SHPO) pursuant to the New York State Historic Preservation Act of 1980, as well as all required floodplain documentation to ensure compliance with 6 NYCRR Part 502, “Floodplain Management Criteria for State Projects.”

The City of Watertown received a grant through the New York State Department of State (DOS) as part of the New York State DRI, which will the City will use to pay for the project. As such, all deliverables must include the language specified in the “Additional Requirements” section below.

**Deliverable:** Documented verification of all necessary approvals.

7. SEQRA Documents

The chosen firm will be responsible for preparing all documents necessary to assist the City in completing the State Environmental Quality Review Act (SEQRA) through determination of significance.

**Deliverable:** Maps, project information and other assistance as necessary.

8. Final Design and Construction Documents:

The City’s intent is to bid this project for construction upon completion of the final design. This deliverable shall include all documents necessary for the City to bid the project. This includes, but is not limited to, final design and construction drawings, plans, technical specifications, cost estimates, survey work, estimated duration of construction and a list of all permits necessary to undertake construction. The chosen firm will work with the City’s Purchasing Department and incorporate the City’s general specifications as appropriate.

**Deliverable:** Full construction bid package ready for the City to put out to bid.
ADDITIONAL REQUIREMENTS FOR DELIVERABLES:

All materials printed, constructed, and/or produced must acknowledge the contributions of the Department of State to the project. The materials must include the Department of State logo and the following acknowledgment:

"This (document, report, map, etc.) was prepared with funding provided by the New York State Department of State under Title 11 of the Environmental Protection Fund."

All required products must be clearly labeled with the NYS Comptroller's Contract # as indicated on the Face Page of the contract.

The contributions of the Department of State must also be acknowledged in community press releases and other notices issued for the project, including web site postings and other forms of digital distribution. Project press releases and other notices shall be submitted to the Department for review and approval prior to release, to ensure appropriate attribution.

STAFF AND LOCAL RESOURCES

City of Watertown Planning Staff will be available to assist with meetings needed to accomplish this project, compiling past information and previous plans, provide zoning information and assist with other any other needs if possible.

SUBMISSION REQUIREMENTS

Interested firms shall submit their qualifications which should include the following:

- A full description of how the chosen firm will complete each item in the Scope of Work, as well as a schedule that lists all milestones for developing and executing project deliverables.
- A narrative explaining the firm’s qualifications for the project, and a summary of the firm’s recent experience in similar projects;
- A description of each staff member or sub-consultant who will be involved with this project and a description of his or her role in the project. The proposer must provide a list of all person(s) who will be assigned work pursuant to this RFP (including subcontractors), as well as their resumes showing qualifications, educational background, training and experience;
- Ability to integrate this project into the firm’s present workload;
- References: names and contact information of previous clients with a detailed description of the type of project completed. The proposer must submit five references from projects of similar scope and nature. Each reference should include a contact person, email address and phone number along with a statement describing the project;
• A budget, including a cost for each task and a lump sum cost for the entire project. In addition, a timeline for the completion of the project by task should be included. A Cost proposal outline must accompany the submission. It should break down each task in the Scope of Work and show the ability to complete all project tasks within the allotted budget;
• A statement of the respondent’s effort to comply with the State’s Minority and Women Owned Business Enterprise (M/WBE) goals of 15% Minority-owned Business Enterprise (“MBE”) participation and 15% Women-owned Business (“WBE”) participation (based on the current availability of MBEs and WBEs);
• The successful firm will be required to provide proof of General Liability Insurance in the amount of not less than $1,000,000.00 for each occurrence and in an amount not less than $2,000,000.00 general aggregate.

EVALUATION CRITERIA AND PROCEDURES

• Quality and completeness of the response: The City will evaluate proposals based on their quality, clarity, and demonstrated understanding of the project objectives;
• Implementation Schedule: The City will also evaluate proposals based on their ability to complete the project within the timeframe the firm describes in its submission;
• Cost-effectiveness of the proposal;
• Qualifications and relevant experience with respect to the tasks to be performed;
• Reputation among previous clients and previous experience;
• Ability to satisfy MWBE requirements.

SUBMISSION DEADLINE

Expressions of interest are due by 4:00PM, Friday, December 18, 2020. Responses shall include three (3) paper copies and by email in PDF format. All files must be less than 10 megabytes. Dividing the response into multiple emails to exceed the 10 megabyte per email limit total is not acceptable.

Responses must be sent to:

Ms. Dale Morrow
Purchasing Manager
245 Washington Street, Suite 302
Watertown, NY 13601
dmorrow@watertown-ny.gov
For Questions please contact:

- Michael Lumbis, City of Watertown Planning and Community Development Director: mlumbis@watertown-ny.gov, (315) 785-7734
- Geoffrey Urda, City of Watertown Planner: gurda@watertown-ny.gov, (315) 785-7725

PRESENTATION BY RESPONDENTS

The City may require qualified finalists to give presentations. If held, the City will notify finalists of the time, date and location.

Presentation format will be at the discretion of the proposers. Presentations will be limited to a one-hour period per respondent, which includes questions. All key managerial personnel, as well as key personnel working on the project, must attend the proposal presentation.

NOTIFICATION OF AWARD

The City will notify the successful respondent by phone, followed by written confirmation. Each respondent whose proposal is not accepted will receive notification by email.

After notification of award, the City and the successful respondent will work together to develop a contract for the project. City of Watertown Planning Staff will then present the finished contract to the City Council for approval, after which the project can begin. In the event that a contract cannot be finalized within thirty (30) days of the award, the City reserves the right to enter into negotiations with another respondent.
PROPOSAL COMPLIANCE DOCUMENTS

The following docs must be signed and included with your proposal:

Compliance to Law Requirements – Non Collusion Certificate

In accordance with the provisions of Section 103-A of the General Municipal Law, it is understood and agreed that upon refusal of a person called upon before a Grand Jury to testify concerning any transactions or contracts had with the State, or an political subdivision thereof, a public authority or any public department, agency or officer of the State or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against any subsequent criminal, prosecution or to answer any relative 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 or receiving awards from or entering into any contract with any municipal corporation or fire district, or any public department, agency or official thereof, for goods, work or services for a period of five (5) years after such refusal, and to provide that:

(b) Any and all contracts made with any municipal corporation or any public department, agency or official thereof on or after the first day of July, 1959 or with any fire district or any agency or official thereof, on or after the first day of September, 1960, by such person, any by any firm, partnership, or corporation of which he is a member, partner, director or officer may be cancelled or terminated by the municipal corporation or fire district without incurring any penalty or damage on account of such cancellation or termination but any monies owing by the municipal corporation or fire district for goods, delivered or work done prior to the cancellation or termination shall be paid.

Section 103-d Statement of non-collusion in bids and proposals to political subdivision of the state:

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

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

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

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

The person signing this bid or proposal certifies that he had fully informed himself regarding the accuracy of the statement contained in the certification, and under the penalties of perjury, affirms the truth thereof, such penalties being applicable to the bidder as well as to the person signing in its behalf;

That attached hereto (if a corporate bidder) is a certified copy of the resolution authorizing the execution of this certificate by the signator of this bid or proposal in behalf of the corporate bidder.
Non-Collusion Certificate

EACH PROPOSAL MUST HAVE ATTACHED TO IT A NON-COLLUSION CERTIFICATE PURSUANT TO 103-D OF THE GENERAL MUNICIPAL LAW FULLY COMPLETED AND SIGNED. THE CERTIFICATE BELOW MUST BE COMPLETED AND RETURNED WITH THIS BID.

Resolved that __________________________________________________ be authorized to sign and submit the proposal of this corporation for the following project:
______________________________________________________________________________
______________________________________________________________________________

And to include in such proposal the certificate as to non-collusion required by section one hundred three D of the General Municipal Law as the act and deed of such corporation, and for any inaccuracies or misstatements in such certificate this corporation shall be liable under the penalties of perjury.

______________________________________________________________________________

The foregoing is true and correct copy of the resolution adopted by:

__________________________________________
Corporation

At the meeting of its Board of Directors held on ___________ day of ____________________
20_____

(Seal of Corporation)

As a result of the Iran Divestment Act of 2012 (the “Act”), Chapter 1 of the 2012 Laws of New York, a new provision has been added to State Finance Law (SFL) § 165-a and New York General Municipal Law § 103-g, both effective April 12, 2012. Under the Act, the Commissioner of the Office of General
Services (OGS) will be developing a list of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law) (the “Prohibited Entities List”). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act’s effective date at which time it will be posted on the OGS website.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/Contractor and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the OGS website, to the best of its knowledge and belief, each Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to SFL § 165-a(3)(b).

Additionally, Bidder/Contractor is advised that once the Prohibited Entities List is posted on the OGS Website, any Bidder/Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the City receive information that a Bidder/Contractor is in violation of the above-referenced certification, the City will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the City shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

The City reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a contract and subsequently appears on the Prohibited Entities List.

I, being duly sworn, deposes and says that he/she is the of The Corporation and that neither the Bidder/Contractor nor any proposed subcontractor is identified on the Prohibited Entities List.

SIGNED

SWORN to before me this day of___________ 20

________________________________________
Certification of Sexual Harassment Prevention In the Workplace Policy and Annual Sexual Harassment Prevention Training of All Employees

Pursuant to NYS Finance Law 3139-1

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of Section Two Hundred One-g of the Labor Law (NY Labor Law §201-g).

A bid shall not be considered for award nor shall any award be made to a bidder who has not complied with the certification requirement of NYS Finance Law §139-1(1); provided, however, that if the bidder cannot make the foregoing certification, such bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore.

Any bid hereafter made by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where such bid contains the statement required by NYS Finance Law §139-1(1), shall be deemed to have been authorized by the board of directors of such bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the corporation.

Certified under penalty of perjury:

Signature: ________________________________

Print Name: ________________________________

Title: ________________________________
**Defined Project Corridors**

As depicted on the map on the following page, the defined street segments for each of the three project corridors are as follows:

**Court Street:** The entire span of the street from the eastern terminus at the confluence with Arsenal Street and Public Square to the western terminus at Massey Street North.

**Coffeen Street:** The approximately 550-foot segment between Massey Street North and the eastern terminus at Court Street.

**Franklin Street:** The 200-block; an approximately 700-foot segment spanning from Goodale Street to Sterling Street.

The defined project areas include the entire width of the above corridors, from building face to building face. While the City envisions streetscape improvements to occur primarily in the area located between the curb and building face, the City will also consider impactful improvements across the roadway cross-section.
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STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

3. COMPTROLLER’S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds $50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed $85,000 (State Finance Law § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

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

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

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

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

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

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

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

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.
12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor’s equal employment opportunity policy that:

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

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

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

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over $25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development’s Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

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

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIE FAIR EMPLOYMENT PRINCIPLES (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

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

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

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

NYS Department of Economic Development
Division of Minority and Women’s Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov

https://ny.newnycontracts.com/ FrontEnd/VendorSearchPublic.asp

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)–(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than $1 million:

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

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS. (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)(b)) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.
23. **COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

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

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

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

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

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

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

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

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