



E-99-16

**CF (Capital)****CF****Contract Details**

SERVICE: Construction Management

NIFS ID #: CFPW16000019

NIFS Entry Date: 2/26/16

Term: from Execution to 27 months

New X Renewal	<input type="checkbox"/>
Amendment	<input type="checkbox"/>
Time Extension	<input type="checkbox"/>
Addl. Funds	<input type="checkbox"/>
Blanket Resolution	<input type="checkbox"/>
RES#	

1) Mandated Program:	Yes X	No <input type="checkbox"/>
2) Comptroller Approval Form Attached:	Yes X	No <input type="checkbox"/>
3) CSEA Agmt. § 32 Compliance Attached:	Yes X	No <input type="checkbox"/>
4) Vendor Ownership & Mgmt. Disclosure Attached:	Yes X	No <input type="checkbox"/>
5) Insurance Required	Yes X	No <input type="checkbox"/>

**Agency Information**

Vendor	
Name <b>Gannett Fleming Engineers, P.C.</b>	<b>52-2151596</b>
Address 100 Crossways Park West Suite 300 Woodbury, NY 11797	Contact Person <b>Fotios Papamichael, P.E</b>
	Phone <b>(516) 364-4140</b>

County Department
Department Contact <b>Kenneth G. Arnold, Assistant to Commissioner</b>
Address <b>1194 Prospect Ave. Westbury, NY 11590-2723</b>
Phone <b>516-571-9607</b>

**Routing Slip**

DATE Rec'd.	DEPARTMENT	Internal Verification	DATE App'd & Fw'd.	SIGNATURE	Leg. Approval Required
	Department	NIFS Entry (Dept) <input type="checkbox"/> NIFS Appvl (Dept. Head) <input type="checkbox"/>	3/22/16	<i>[Signature]</i>	
	DPW (Capital Only)	CF Capital Fund Approval <input type="checkbox"/>	3/9/16	<i>[Signature]</i>	
	OMB	NIFS Approval <input type="checkbox"/>	3/24/16	<i>[Signature]</i>	Yes <input type="checkbox"/> No <input type="checkbox"/> Not required if Blanket Res
3/29/16	County Attorney	CA RE & Insurance Verification <input type="checkbox"/>	3/31/16	<i>[Signature]</i>	
3/31/16	County Attorney	CA Approval as to form <input checked="" type="checkbox"/>	4/2/16	<i>[Signature]</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
	Legislative Affairs	Fw'd Original Contract to CA <input type="checkbox"/>			
	Rules <input type="checkbox"/> / Leg. <input type="checkbox"/>	<input type="checkbox"/>			
	County Attorney	NIFS Approval <input type="checkbox"/>			
	Comptroller	NIFS Approval <input type="checkbox"/>			
4/18/16	County Executive	Notarization <input type="checkbox"/> Filed with Clerk of the Leg. <input type="checkbox"/>	4/15/16	<i>[Signature]</i>	

RECEIVED  
MAY 18 2016  
COUNTY  
LEGISLATIVE  
STAFF



## Contract Summary

**Description:** Construction Management Services Agreement for the Bay Park Sewage Treatment Plant Flood Protection Phase I Storm Water Pumping Stations.

**Purpose:** As an enhancement to the new perimeter flood wall/earthen berm, the storm water pump stations are required to mitigate the potential for future tidal "back-ups" through the storm water system while still having the ability to collect and transport storm water from the plant property within the perimeter flood wall/earthen berm. This contract will provide a construction management staff including resident engineer, inspection, office engineer, etc., for the performance of the construction work.

**Method of Procurement:** Qualification Based Selection (QBS) procedure for the procurement of professional services, developed in accordance with procedures stipulated in the Board of Supervisor's Resolution 928-1993 and the County Executive's Order No. 1-1993.

**Procurement History:** A Request for Proposal (RFP) was advertised in Newsday and the County Website on July 31, 2015 with technical proposals received on August 28, 2015. Nine (9) Firms responded to this RFP with one firm not qualifying. All of the Firms were considered local Firms (Firms having a main or branch office in Nassau or Suffolk Counties). After review of the Technical Proposals and Costs, Gannett Fleming Engineers was deemed the highest technical rank.

**Description of General Provisions:** This Agreement provides for complete Construction Management Services including furnishing resident engineer, inspectors, schedulers, cost estimators, evaluation of contractor claims, and other construction related services.

**Impact on Funding / Price Analysis:** Funding for these services to be provided under this Agreement will come from Capital Project 35121. Gannett Fleming's proposed fee was determined to be fair and reasonable. This twenty-seven (27) month Agreement has a maximum payment limitation of \$1,330,794.

**Change in Contract from Prior Procurement:** Not applicable.

**Recommendation:** Approve as submitted

## Advisement Information

BUDGET CODES	
Fund:	CSW
Control:	35
Resp:	121
Object:	0003
Transaction:	

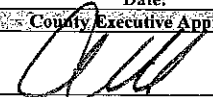
FUNDING SOURCE	AMOUNT
Revenue Contract <input type="checkbox"/>	XXXXXXXX
County	\$ 1,330,794
Federal	\$
State	\$
Capital	\$
Other	\$
<b>TOTAL</b>	<b>\$ 1,330,794</b>

LINE	INDEX/OBJECT CODE	AMOUNT
1	CSW; 35121	\$ 1,330,794
2		\$
3		\$
4		\$
5		\$
6		\$
<b>TOTAL</b>		<b>\$ 1,330,794</b>

RENEWAL	
% Increase	
% Decrease	

Document Prepared By: **Damon W. Urso, Sanitary Engineer III**

Date: **2/10/2016**

NIFS Certification		Comptroller Certification	County Executive Approval
I certify that this document was accepted into NIFS.		I certify that an unencumbered balance sufficient to cover this contract is present in the appropriation to be charged.	Name 
Name		Name	Date <b>4/18/16</b>
Date		Date	(For Office Use Only)
<b>E #:</b>			



# Nassau County Interim Finance Authority

## Contract Approval Request Form (As of January 1, 2015)

1. Vendor: Gannett Fleming Engineers, P.C.

2. Dollar amount requiring NIFA approval: \$ \$1,330,794

Amount to be encumbered: \$ 1,330,794

This is a ☒ New Contract ☐ Advisement ☐ Amendment

If new contract - \$ amount should be full amount of contract

If advisement - NIFA only needs to review if it is increasing funds above the amount previously approved by NIFA

If amendment - \$ amount should be full amount of amendment only

3. Contract Term: Twenty-seven (27) Months

Has work or services on this contract commenced? ☐ Yes ☒ No

If yes, please explain: \_\_\_\_\_

### 4. Funding Source:

☒ General Fund (GEN)  
☐ Capital Improvement Fund (CAP)  
☐ Other

☒ Grant Fund (GRT)

Federal % 100  
State % \_\_\_\_\_  
County % \_\_\_\_\_

*All FEMA  
Funded  
IA*

Is the cash available for the full amount of the contract? ☒ Yes ☐ No

If not, will it require a future borrowing? ☐ Yes ☐ No

Has the County Legislature approved the borrowing? ☐ Yes ☐ No ☒ N/A

Has NIFA approved the borrowing for this contract? ☐ Yes ☐ No ☒ N/A

### 5. Provide a brief description (4 to 5 sentences) of the item for which this approval is requested:

Construction Management services for two (2) Storm Water Pump Stations (8.4 MGD north catchment area and 38 MGD south catchment area) at the Bay Park Sewage Treatment Plant. As an enhancement to the function of the proposed STP perimeter floodwall/earthen berm, the Storm Water Pump Stations are required to mitigate the potential for future tidal "back-ups" through the storm water system while still having the ability to collect and transport storm water from the plant property within the perimeter wall berm. This agreement is to provide construction related services such as Resident Engineer, Inspectors, Estimators, Schedulers, etc.,

### 6. Has the item requested herein followed all proper procedures and thereby approved by the:

Nassau County Attorney as to form ☐ Yes ☐ No ☐ N/A  
Nassau County Committee and/or Legislature ☐ Yes ☐ No ☐ N/A

Date of approval(s) and citation to the resolution where approval for this item was provided:

### 7. Identify all contracts (with dollar amounts) with this or an affiliated party within the prior 12 months:

Exceeds \$50K.

## AUTHORIZATION

To the best of my knowledge, I hereby certify that the information contained in this Contract Approval Request Form and any additional information submitted in connection with this request is true and accurate and that all expenditures that will be made in reliance on this authorization are in conformance with the Nassau County Approved Budget and not in conflict with the Nassau County Multi-Year Financial Plan. I understand that NIFA will rely upon this information in its official deliberations.

Roseann Allen 3/30/16  
Signature Title Date

\_\_\_\_\_  
Print Name

## COMPTROLLER'S OFFICE

To the best of my knowledge, I hereby certify that the information listed is true and accurate and is in conformance with the Nassau County Approved Budget and not in conflict with the Nassau County Multi-Year Financial Plan.

Regarding funding, please check the correct response:

\_\_\_\_ I certify that the funds are available to be encumbered pending NIFA approval of this contract.

If this is a capital project:

\_\_\_\_ I certify that the bonding for this contract has been approved by NIFA.

\_\_\_\_ Budget is available and funds have been encumbered but the project requires NIFA bonding authorization

\_\_\_\_\_  
Signature Title Date

\_\_\_\_\_  
Print Name

## NIFA

Amount being approved by NIFA: \_\_\_\_\_

\_\_\_\_\_  
Signature Title Date

\_\_\_\_\_  
Print Name

**NOTE: All contract submissions MUST include the County's own routing slip, current NIFS printouts for all relevant accounts and relevant Nassau County Legislature communication documents and relevant supplemental information pertaining to the item requested herein.**

**NIFA Contract Approval Request Form MUST be filled out in its entirety before being submitted to NIFA for review.**

**NIFA reserves the right to request additional information as needed.**



OFFICE OF THE COMPTROLLER  
240 Old Country Road  
Mineola, New York 11501

**COMPTROLLER APPROVAL FORM FOR  
PERSONAL, PROFESSIONAL OR HUMAN SERVICES  
CONTRACTS**

*Attach this form along with all personal, professional or human services contracts, contract renewals, extensions and amendments.*

**CONTRACTOR NAME: Gannett Fleming Engineers, P.C.**

**CONTRACTOR ADDRESS: 100 Crossways Park West, Suite 300,  
Woodbury NY 11797**

**FEDERAL TAX ID #: 52-2151596**\_\_\_\_\_

**Instructions:** Please check the appropriate box ("☑") after one of the following roman numerals, and provide all the requested information.

**I. ☐ The contract was awarded to the lowest, responsible bidder after advertisement for sealed bids.** The contract was awarded after a request \_\_\_\_\_ for sealed bids was published in \_\_\_\_\_ [newspaper] on \_\_\_\_\_ [date]. The sealed bids were publicly opened on \_\_\_\_\_ [date]. \_\_\_\_\_ [#] of sealed bids were received and opened.

**II. ☐ The contractor was selected pursuant to a Request for Proposals.**

The Contract was entered into after a written request for proposals was issued on \_\_\_\_\_. Potential proposers were made aware of the availability of the RFP by advertisement in Newsday, posting on industry websites, via email to interested parties and by publication on the County procurement website. Proposals were due on \_\_\_\_\_. [Number] ( ) proposals were received and evaluated. The evaluation committee consisted of: three members of the Comptroller's Office and one member of the County Executive's Office. The proposals were scored and ranked. As a result of the scoring and ranking, the highest-ranking proposer was selected.

**III. ☐ This is a renewal, extension or amendment of an existing contract.**

The contract was originally executed by Nassau County on \_\_\_\_\_ [date]. This is a renewal or extension pursuant to the contract, or an amendment within the scope of the contract or RFP (copies of the relevant pages are attached). The original contract was entered into after \_\_\_\_\_

\_\_\_\_\_ [describe procurement method, i.e., RFP, three proposals evaluated, etc.] Attach a copy of the most recent evaluation of the contractor's performance for any contract to be renewed or extended. If the contractor has not received a satisfactory evaluation, the department must explain why the contractor should nevertheless be permitted to continue to contract with the county.

**IV. ☐ Pursuant to Executive Order No. 1 of 1993, as amended, at least three proposals were solicited and received. The attached memorandum from the department head describes the proposals received, along with the cost of each proposal.**

- ☐ A. The contract has been awarded to the proposer offering the lowest cost proposal; **OR:**
- ☐ B. The attached memorandum contains a detailed explanation as to the reason(s) why the contract was awarded to other than the lowest-cost proposer. The attachment includes a specific delineation of the unique skills and experience, the specific reasons why a proposal is deemed superior, and/or why the proposer has been judged to be able to perform more quickly than other proposers.

**V. ☐ Pursuant to Executive Order No. 1 of 1993 as amended, the attached memorandum from the department head explains why the department did not obtain at least three proposals.**

- ☐ A. There are only one or two providers of the services sought or less than three providers' submitted proposals. The memorandum describes how the contractor was determined to be the sole source provider of the personal service needed or explains why only two proposals could be obtained. If two proposals were obtained, the memorandum explains that the contract was awarded to the lowest cost proposer, or why the selected proposer offered the higher quality proposal, the proposer's unique and special experience, skill, or expertise, or its availability to perform in the most immediate and timely manner.
- ☐ B. The memorandum explains that the contractor's selection was dictated by the terms of a federal or New York State grant, by legislation or by a court order. (Copies of the relevant documents are attached).

☐ C. Pursuant to General Municipal Law Section 104, the department is purchasing the services required through a New York State Office of General Services contract no. \_\_\_\_\_, and the attached memorandum explains how the purchase is within the scope of the terms of that contract.

☐ D. Pursuant to General Municipal Law Section 119-o, the department is purchasing the services required through an inter-municipal agreement.

**VI. ☐ This is a human services contract with a not-for-profit agency for which a competitive process has not been initiated.** Attached is a memorandum that explains the reasons for entering into this contract without conducting a competitive process, and details when the department intends to initiate a competitive process for the future award of these services. For any such contract, where the vendor has previously provided services to the county, attach a copy of the most recent evaluation of the vendor's performance. If the contractor has not received a satisfactory evaluation, the department must explain why the contractor should nevertheless be permitted to contract with the county.

In certain limited circumstances, conducting a competitive process and/or completing performance evaluations may not be possible because of the nature of the human services program, or because of a compelling need to continue services through the same provider. In those circumstances, attach an explanation of why a competitive process and/or performance evaluation is inapplicable.

**VII. ☒ This is a public works contract for the provision of architectural, engineering or surveying services.** The attached memorandum provides details of the department's compliance with Board of Supervisors' Resolution No.928 of 1993, including its receipt and evaluation of annual Statements of Qualifications & Performance Data, and its negotiations with the most highly qualified firms.

**VIII. ☒ Participation of Minority Group Members and Women in Nassau County Contracts.** The selected contractor has agreed that it has an obligation to utilize best efforts to hire MWBE sub-contractors. Proof of the contractual utilization of best efforts as outlined in Exhibit "EE" may be requested at any time, from time to time, by the Comptroller's Office prior to the approval of claim vouchers.

**IX. ☒ Department MWBE responsibilities.** To ensure compliance with MWBE requirements as outlined in Exhibit "EE", Department will require vendor to submit list of sub-contractor requirements prior to the contract being submitted to the Comptroller.

**X. ☐ Vendor will not require any sub-contractors.**

**In addition, if this is a contract with an individual or with an entity that has only one or two employees:** ☐ a review of the criteria set forth by the Internal Revenue Service, *Revenue Ruling No. 87-41*, 1987-1 C.B. 296, attached as Appendix A to the Comptroller's Memorandum, dated February 13, 2004, concerning independent contractors and employees indicates that the contractor would not be considered an employee for federal tax purposes.



Signature

Department Head

  
Date

**NOTE:** Any information requested above, or in the exhibit below, may be included in the county's "staff summary" form in lieu of a separate memorandum.

*Compt. form Pers./Prof. Services Contracts: Rev. 09/15*



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COUNTY OF NASSAU  
DEPARTMENT OF PUBLIC WORKS  
Inter-Departmental Memo

**TO:** Civil Service Employees Association, Nassau Local 830  
Att: Ronald Gurrieri, Executive Vice President

**FROM:** Department of Public Works

**DATE:** September 21, 2015

**SUBJECT:** CSEA Notification of a Proposed DPW Construction Management Contract  
Bay Park STP Flood Protection Phase 1 - Storm Water Pumping Stations -  
Proposed Contract No. S35121-18M

The following notification is to comply with the spirit and intent of Section 32 of the County/CSEA contract. It should not be implied that the proposed DPW contract/agreement is for the work which has "historically and exclusively been performed by bargaining unit members".

1. DPW plans to recommend a contract/agreement for the following services:


Construction Management Services

2. The work involves the following:

Scope of Work: Management of the general construction contract for the Bay Park STP proposed storm water pump stations to pump storm water from the plant property within the perimeter wall/berm.

3. An estimate of the cost is: \$2,000,000.00
4. An estimate of the duration is: Twenty-seven (27) months

Should you wish to propose an alternative to the proposed contract/agreement, please respond within ten (10) days to: Department of Public Works, Att: Kenneth G. Arnold, Assistant to Commissioner, telephone 1-9607, fax 1-9657.

  
Kenneth G. Arnold  
Assistant to Commissioner

KGA:WSN:JLD:rp

c: Christopher Fusco, Director, Office of Labor Relations  
Keith Cromwell, Office of Labor Relations  
Rakhal Maitra, Deputy Commissioner  
William S. Nimmo, Deputy Commissioner  
Joseph L. Davenport, Unit Head, Water/Wastewater Engineering Unit  
Thomas Immerso, Sanitary Engineer II  
Patricia Kivo, Unit Head, Human Resources Unit  
Loretta V. Dionisio, Hydrogeologist II  
Brent Chow, Jacobs  
✓Damon



**COUNTY OF NASSAU**  
**DEPARTMENT OF PUBLIC WORKS**  
**Inter-Departmental Memo**

**TO:** Office of the County Executive  
Att: Richard R. Walker, Chief Deputy County Executive

**FROM:** Department of Public Works

**DATE:** December 7, 2015

**SUBJECT:** Proposed Personal Services Agreement with Gannett Fleming  
Recommendation of Firm for Construction Management Services  
Bay Park Sewage Treatment Plant  
Flood Protection Phase 1  
Storm Water Pumping Stations  
Proposed Agreement No. S35121-18M

This Department intends to procure Construction Management services for the construction of two (2) storm water pumping stations at the Bay Park Sewage Treatment Plant. As an enhancement to the new perimeter flood wall/earthen berm, the storm water pump stations are required to mitigate the potential for future tidal "back-ups" through the storm water system while still having the ability to collect and transport storm water from the plant property within the perimeter flood wall/earthen berm.

A "Request for Proposal" was prepared in conformance with the Department's policy for assessing technical understanding, statement of qualification, and a proposed project schedule. The Request for Proposal was posted on the County's website and advertised in *Newsday*.

Technical and Cost Proposals were received from nine (9) firms (listed below) on August 28, 2015. The Technical Proposals were evaluated by professionals from within the Department of Public Works for eight (8) of the nine (9) firms submitted (one firm, Gibbons, Esposito & Boyce, did not qualify). Following the review, the technical rank was established and the cost proposals were reviewed. The results of the technical evaluation are summarized below, along with each firm's total proposed fee (based upon 27 month construction duration).

Firm Name	Technical Rank	Technical Rating	Proposed Design Fee	Total Design Fee with Contingency
D&B	1	87.5	\$1,617,276.00	\$2,102,458.80
Gannett Fleming	2	86.3	\$1,023,687.74	\$1,330,794.00
AECOM	3	85.8	\$1,491,975.00	\$1,939,567.50
LKB	4	84.8	\$1,704,870.00	\$2,216,331.00
JACOBS	5	83.8	\$1,432,888.16	\$1,862,754.61
HAKS	6	83.3	\$1,425,358.96	\$1,852,966.65
G&H	7	82.5	\$1,010,922.25	\$1,314,198.93
Nautilus	8	63.8	\$1,665,168.00	\$2,164,718.40
GEB	Not	Evaluated		

While the proposal from D&B received the highest technical rating, they were not selected because they are the project design engineer and also have a contractual relationship for future design services during construction. Therefore, it was felt that their work as a CM could cause a future conflict of interest.



Office of the County Executive  
Att: Richard R. Walker, Chief Deputy County Executive  
December 7, 2015  
Page 2

SUBJECT: Proposed Personal Services Agreement with Gannett Fleming  
Recommendation of Firm for Construction Management Services  
Bay Park Sewage Treatment Plant  
Flood Protection Phase 1  
Storm Water Pumping Stations  
Proposed Agreement No. S35121-18M

Also, the technical proposal submitted by the firm of Gibbons, Esposito & Boyce was not ranked and its cost proposal not opened because the firm has a contractual relation as a sub-consultant with the County's Bay Park Program Manager Joint Venture (PM-JV), and would be considered a conflict of interest if awarded.

Accordingly, Gannett Fleming's proposal being the second highest ranked was selected, however, their original cost proposal (\$1,198,264.86) was higher than we anticipated for the scope of services; it was believed that clarification as to the basis for their proposed cost was necessary. A discussion was held with representatives of Gannett Fleming to discuss their cost proposal, the scope of services, and the anticipated project scope. **After discussions, Gannett Fleming submitted a revised cost proposal of \$1,023,687.74 (\$1,330,794.00 with contingency) for this project.**

In our professional judgment, the proposal submitted by Gannett Fleming, having the highest technical rating and proposing a reasonable design fee, represents the best value to the County. Therefore, we recommend proceeding with a Personal Service Agreement with Gannett Fleming for \$1,023,687.74 (1,330,794.00 with contingency) to provide Construction Management Services for the Storm Water Pumping Stations.

The funding for these professional services is available under Capital Project 35121. It is expected that the full cost of these services will be eligible for reimbursement by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

In accordance with the procedural guidelines, CSEA has been notified of this proposed agreement.

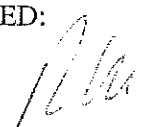
If you approve or disapprove of the foregoing, please signify by signing below and returning a copy of this memo.

  
Richard P. Millet  
Chief Deputy Commissioner

RPM:KGA:JLD:rp

c: Shila Shah-Gavnoudias, Commissioner  
Kenneth G. Arnold, Assistant to Commissioner  
Joseph L. Davenport, Unit Head, Water/Wastewater Engineering Unit  
✓ Damon W. Urso, Sanitary Engineer III  
Loretta V. Dionisio, Hydrogeologist II

APPROVED:

  
Richard R. Walker  
Chief Deputy County Executive

Date

DISAPPROVED:

\_\_\_\_\_  
Richard R. Walker  
Chief Deputy County Executive

Date

## REQUEST TO INITIATE

RTI Number

16-0015

## REQUEST FOR QUALIFICATIONS/REQUEST FOR PROPOSAL/REQUEST FOR BID CONTRACT

PART I: Approval by the Deputy County Executive for Operations must be obtained prior to ANY RFQ/RFP/RFBC☐ RFQ☒ RFP☐ RFBC☐ In-House or Requirements Work OrderProject Title: S35121-18M Bay Park STP Flood Protection Phase 1 - Storm Water Pump StationsDepartment: Public Works Project Manager: Damon UrsoDate: September 4, 2015Service Requested: Construction Management

Justification: As an enhancement to the function of the proposed Bay Park STP perimeter floodwall/earthen berm, two (2) Storm Water Pump Stations are required to mitigate the potential for future tidal "back-ups" through the plant's storm water system while still having the ability to collect and transport storm water from the plant property within the perimeter wall berm. This project will design an 8.4 MGD pump station at the north catchment area and a 38 MGD pump station at the south catchment area of the Bay Park Sewage Treatment Plant.

Requested by: Public Works - Water/Wastewater Engineering UnitProject Cost for this Phase/Contract: (Plan/Design/Construction/CM/Equipment): \$1,740,000.00

Circle appropriate phase

Total Project Cost: \$21,300,000.00

Includes, design, construction and CM

Date Start Work: January 2016

Phase being requested

Duration: Twenty-Seven (27) months

Phase being requested

Capital Funding Approval: YES ☒ NO ☐

SIGNATURE

DATE

Funding Allocation (Capital Project):

See Attached Sheet if multiyear ☐

NIFS Entered:

SIGNATURE

DATE

AIM Entered:

SIGNATURE

DATE

Funding Code: 35121 018

use this on all encumbrances

Timesheet Code: 16-0015

use this on timesheets

State Environmental Quality Review Act (SEQRA):

Type II Action ☐ or, Environmental Assessment Form Required ☐

Supplemental Environmental Documentation

Department Head Approval:

YES ☒ NO ☐

SIGNATURE

DCE/Ops Approval:

YES ☐ NO ☐

SIGNATURE

PART II: To be submitted to Chief Deputy County Executive after Qualifications/Proposals/Contracts are received from Responding vendors.

Vendor	Quote	Comment	See Attached Sheet <input type="checkbox"/>
1. _____	_____	_____	
2. _____	_____	_____	
3. _____	_____	_____	
4. _____	_____	_____	

DCE/Ops Approval:

YES

NO

Signature \_\_\_\_\_

Version January 2014

D.U. 9/11/15



COUNTY OF NASSAU

POLITICAL CAMPAIGN CONTRIBUTION DISCLOSURE FORM

1. Has the vendor or any corporate officers of the vendor provided campaign contributions pursuant to the New York State Election Law in (a) the period beginning April 1, 2016 and ending on the date of this disclosure, or (b), beginning April 1, 2018, the period beginning two years prior to the date of this disclosure and ending on the date of this disclosure, to the campaign committees of any of the following Nassau County elected officials or to the campaign committees of any candidates for any of the following Nassau County elected offices: the County Executive, the County Clerk, the Comptroller, the District Attorney, or any County Legislator? If yes, to what campaign committee?

No

2. VERIFICATION: This section must be signed by a principal of the consultant, contractor or Vendor authorized as a signatory of the firm for the purpose of executing Contracts.

The undersigned affirms and so swears that he/she has read and understood the foregoing statements and they are, to his/her knowledge, true and accurate.

The undersigned further certifies and affirms that the contribution(s) to the campaign committees identified above were made freely and without duress, threat or any promise of a governmental benefit or in exchange for any benefit or remuneration.

Dated: March 31, 2016

Vendor: Gannett Fleming Engineers, PC

Signed: James R. Laurita

Print Name: James R. Laurita, PE

Title: Chairman/Director



COUNTY OF NASSAU

LOBBYIST REGISTRATION AND DISCLOSURE FORM

1. Name, address and telephone number of lobbyist(s)/lobbying organization. The term "lobbyist" means any and every person or organization retained, employed or designated by any client to influence - or promote a matter before - Nassau County, its agencies, boards, commissions, department heads, legislators or committees, including but not limited to the Open Space and Parks Advisory Committee and Planning Commission. Such matters include, but are not limited to, requests for proposals, development or improvement of real property subject to County regulation, procurements. The term "lobbyist" does not include any officer, director, trustee, employee, counsel or agent of the County of Nassau, or State of New York, when discharging his or her official duties.

N/A

2. List whether and where the person/organization is registered as a lobbyist (e.g., Nassau County, New York State):

N/A

3. Name, address and telephone number of client(s) by whom, or on whose behalf, the lobbyist is retained, employed or designated:

N/A

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4. Describe lobbying activity conducted, or to be conducted, in Nassau County, and identify client(s) for each activity listed. See page 4 for a complete description of lobbying activities.

N/A

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5. The name of persons, organizations or governmental entities before whom the lobbyist expects to lobby:

N/A

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6. If such lobbyist is retained or employed pursuant to a written agreement of retainer or employment, you must attach a copy of such document; and if agreement of retainer or employment is oral, attach a written statement of the substance thereof. If the written agreement of retainer or employment does not contain a signed authorization from the client by whom you have been authorized to lobby, separately attach such a written authorization from the client.

7. Has the lobbyist/lobbying organization or any of its corporate officers provided campaign contributions pursuant to the New York State Election Law in (a) the period beginning April 1, 2016 and ending on the date of this disclosure, or (b), beginning April 1, 2018, the period beginning two years prior to the date of this disclosure and ending on the date of this disclosure, to the campaign committees of any of the following Nassau County elected officials or to the campaign committees of any candidates for any of the following Nassau County elected offices: the County Executive, the County Clerk, the Comptroller, the District Attorney, or any County Legislator? If yes, to what campaign committee?

N/A

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I understand that copies of this form will be sent to the Nassau County Department of Information Technology ("IT") to be posted on the County's website.

I also understand that upon termination of retainer, employment or designation I must give written notice to the County Attorney within thirty (30) days of termination.

VERIFICATION: The undersigned affirms and so swears that he/she has read and understood the foregoing statements and they are, to his/her knowledge, true and accurate.

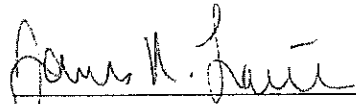
The undersigned further certifies and affirms that the contribution(s) to the campaign committees listed above were made freely and without duress, threat or any promise of a governmental benefit or in exchange for any benefit or remuneration.

Dated: March 31, 2016

Signed:

Print Name:

Title:

  
James R. Laurita, PE  
Chairman/Director



**The term lobbying shall mean any attempt to influence:** any determination made by the Nassau County Legislature, or any member thereof, with respect to the introduction, passage, defeat, or substance of any local legislation or resolution; any determination by the County Executive to support, oppose, approve or disapprove any local legislation or resolution, whether or not such legislation has been introduced in the County Legislature; any determination by an elected County official or an officer or employee of the County with respect to the procurement of goods, services or construction, including the preparation of contract specifications, including but not limited to the preparation of requests for proposals, or solicitation, award or administration of a contract or with respect to the solicitation, award or administration of a grant, loan, or agreement involving the disbursement of public monies; any determination made by the County Executive, County Legislature, or by the County of Nassau, its agencies, boards, commissions, department heads or committees, including but not limited to the Open Space and Parks Advisory Committee, the Planning Commission, with respect to the zoning, use, development or improvement of real property subject to County regulation, or any agencies, boards, commissions, department heads or committees with respect to requests for proposals, bidding, procurement or contracting for services for the County; any determination made by an elected county official or an officer or employee of the county with respect to the terms of the acquisition or disposition by the county of any interest in real property, with respect to a license or permit for the use of real property of or by the county, or with respect to a franchise, concession or revocable consent; the proposal, adoption, amendment or rejection by an agency of any rule having the force and effect of law; the decision to hold, timing or outcome of any rate making proceeding before an agency; the agenda or any determination of a board or commission; any determination regarding the calendaring or scope of any legislature oversight hearing; the issuance, repeal, modification or substance of a County Executive Order; or any determination made by an elected county official or an officer or employee of the county to support or oppose any state or federal legislation, rule or regulation, including any determination made to support or oppose that is contingent on any amendment of such legislation, rule or regulation, whether or not such legislation has been formally introduced and whether or not such rule or regulation has been formally proposed.

**The term "lobbying" or "lobbying activities" does not include:** Persons engaged in drafting legislation, rules, regulations or rates; persons advising clients and rendering opinions on proposed legislation, rules, regulations or rates, where such professional services are not otherwise connected with legislative or executive action on such legislation or administrative action on such rules, regulations or rates; newspapers and other periodicals and radio and television stations and owners and employees thereof, provided that their activities in connection with proposed legislation, rules, regulations or rates are limited to the publication or broadcast of news items, editorials or other comment, or paid advertisements; persons who participate as witnesses, attorneys or other representatives in public rule-making or rate-making proceedings of a County agency, with respect to all participation by such persons which is part of the public record thereof and all preparation by such persons for such participation; persons who attempt to influence a County agency in an adjudicatory proceeding, as defined by § 102 of the New York State Administrative Procedure Act.

## PRINCIPAL QUESTIONNAIRE FORM

All questions on these questionnaires must be answered by all officers and any individuals who hold a ten percent (10%) or greater ownership interest in the proposer. Answers typewritten or printed in ink. If you need more space to answer any question, make as many photocopies of the appropriate page(s) as necessary and attach them to the questionnaire.

COMPLETE THIS QUESTIONNAIRE CAREFULLY AND COMPLETELY. FAILURE TO SUBMIT A COMPLETE QUESTIONNAIRE MAY MEAN THAT YOUR BID OR PROPOSAL WILL BE REJECTED AS NON-RESPONSIVE AND IT WILL NOT BE CONSIDERED FOR AWARD

1. Principal Name Please see Attachment 1 for a list of the officers and directors of GFEPC.  
Date of birth \_\_\_\_/\_\_\_\_/\_\_\_\_  
Home address \_\_\_\_\_  
City/state/zip \_\_\_\_\_  
Business address \_\_\_\_\_  
City/state/zip \_\_\_\_\_  
Telephone \_\_\_\_\_  
Other present address(es) \_\_\_\_\_  
City/state/zip \_\_\_\_\_  
Telephone \_\_\_\_\_  
List of other addresses and telephone numbers attached \_\_\_\_\_
2. Positions held in submitting business and starting date of each (check all applicable)  
President \_\_\_\_/\_\_\_\_/\_\_\_\_ Treasurer \_\_\_\_/\_\_\_\_/\_\_\_\_  
Chairman of Board \_\_\_\_/\_\_\_\_/\_\_\_\_ Shareholder \_\_\_\_/\_\_\_\_/\_\_\_\_  
Chief Exec. Officer \_\_\_\_/\_\_\_\_/\_\_\_\_ Secretary \_\_\_\_/\_\_\_\_/\_\_\_\_  
Chief Financial Officer \_\_\_\_/\_\_\_\_/\_\_\_\_ Partner \_\_\_\_/\_\_\_\_/\_\_\_\_  
Vice President \_\_\_\_/\_\_\_\_/\_\_\_\_  
(Other) \_\_\_\_\_  

Please see Attachment 2 for a list of officers/directors and they dates they began their positions with GFEPC.
3. Do you have an equity interest in the business submitting the questionnaire?  
YES X NO \_\_\_\_ If Yes, provide details. **James R. Laurita owns 50% and John W. Kovacs owns 50%.**
4. Are there any outstanding loans, guarantees or any other form of security or lease or any other type of contribution made in whole or in part between you and the business submitting the questionnaire? YES \_\_\_\_ NO X If Yes, provide details.
5. Within the past 3 years, have you been a principal owner or officer of any business or not-for-profit organization other than the one submitting the questionnaire? YES X NO \_\_\_\_; If Yes, provide details. **Please see Attachment 3.**

6. Has any governmental entity awarded any contracts to a business or organization listed in Section 5 in the past 3 years while you were a principal owner or officer? YES X NO \_\_\_\_  
If Yes, provide details. Gannett Fleming is a national consulting engineering firm and at any one time has 4,000 to 5,000 open agreements too numerous to list. All other entities listed also have too many agreements to list.

NOTE: An affirmative answer is required below whether the sanction arose automatically, by operation of law, or as a result of any action taken by a government agency.  
Provide a detailed response to all questions checked "YES". If you need more space, photocopy the appropriate page and attach it to the questionnaire.

7. In the past (5) years, have you and/or any affiliated businesses or not-for-profit organizations listed in Section 5 in which you have been a principal owner or officer:
- a. Been debarred by any government agency from entering into contracts with that agency?  
YES \_\_\_\_ NO X If Yes, provide details for each such instance.
  - b. Been declared in default and/or terminated for cause on any contract, and/or had any contracts cancelled for cause? YES \_\_\_\_ NO X If Yes, provide details for each such instance.
  - c. Been denied the award of a contract and/or the opportunity to bid on a contract, including, but not limited to, failure to meet pre-qualification standards? YES \_\_\_\_ NO X If Yes, provide details for each such instance.
  - d. Been suspended by any government agency from entering into any contract with it; and/or is any action pending that could formally debar or otherwise affect such business's ability to bid or propose on contract? YES \_\_\_\_ NO X If Yes, provide details for each such instance.
8. Have any of the businesses or organizations listed in response to Question 5 filed a bankruptcy petition and/or been the subject of involuntary bankruptcy proceedings during the past 7 years, and/or for any portion of the last 7 year period, been in a state of bankruptcy as a result of bankruptcy proceedings initiated more than 7 years ago and/or is any such business now the subject of any pending bankruptcy proceedings, whenever initiated? If 'Yes', provide details for each such instance. (Provide a detailed response to all questions checked "YES". If you need more space, photocopy the appropriate page and attach it to the questionnaire.)
- a) Is there any felony charge pending against you? YES \_\_\_\_ NO X If Yes, provide details for each such charge.
  - b) Is there any misdemeanor charge pending against you? YES \_\_\_\_ NO X If Yes, provide details for each such charge.
  - c) Is there any administrative charge pending against you? YES \_\_\_\_ NO X If Yes, provide details for each such charge.
  - d) In the past 10 years, have you been convicted, after trial or by plea, of any felony, or of any other crime, an element of which relates to truthfulness or the underlying facts of which related to the conduct of business? YES \_\_\_\_ NO X If Yes, provide details for each such conviction.

- e) In the past 5 years, have you been convicted, after trial or by plea, of a misdemeanor? YES \_\_\_\_ NO X If Yes, provide details for each such conviction.
- f) In the past 5 years, have you been found in violation of any administrative or statutory charges? YES \_\_\_\_ NO X If Yes, provide details for each such occurrence.
9. In addition to the information provided in response to the previous questions, in the past 5 years, have you been the subject of a criminal investigation and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency and/or the subject of an investigation where such investigation was related to activities performed at, for, or on behalf of the submitting business entity and/or an affiliated business listed in response to Question 5? YES \_\_\_\_ NO X If Yes, provide details for each such investigation.
10. In addition to the information provided, in the past 5 years has any business or organization listed in response to Question 5, been the subject of a criminal investigation and/or a civil anti-trust investigation and/or any other type of investigation by any government agency, including but not limited to federal, state, and local regulatory agencies while you were a principal owner or officer? YES \_\_\_\_ NO X If Yes; provide details for each such investigation.
11. In the past 5 years, have you or this business, or any other affiliated business listed in response to Question 5 had any sanction imposed as a result of judicial or administrative proceedings with respect to any professional license held? YES \_\_\_\_ NO X If Yes; provide details for each such instance.
12. For the past 5 tax years, have you failed to file any required tax returns or failed to pay any applicable federal, state or local taxes or other assessed charges, including but not limited to water and sewer charges? YES \_\_\_\_ NO X If Yes, provide details for each such year.

**Attachment 1**  
**Principal Questionnaire Form**  
**Question 1**

Name	Birth Date	Address	City	State	Zip Code
Doreen M. Bartoldus					
Fotios Papamichael					
Frederick H. Inyard					
Glen L. Hair					
James R. Laurita					
John W. Kovacs					
Paul G. Schweiger					
Stephen Hadjiyane					

**Attachment 2  
Principal Questionnaire Form  
Question 2**

<b>Name</b>	<b>Title</b>	<b>Start Date</b>
Laurita, James R	Shareholder	12/31/2009
Kovacs, John W	Shareholder	1/3/2014
Laurita, James R	Director	6/22/2005
Papamichael, Fotios	Director	5/21/2007
Kovacs, John W	Director	1/3/2014
Laurita, James R	Chairman	12/31/2009
Papamichael, Fotios	President	3/3/2009
Papamichael, Fotios	Treasurer	12/31/2009
Kovacs, John W	Senior Vice President	1/3/2014
Kovacs, John W	Secretary	1/3/2014
Bartoldus, Doreen M	Vice President	9/4/2013
Hadjiyane, Stephen	Vice President	3/3/1999
Hadjiyane, Stephen	Assistant Secretary	1/3/2014
Hair, Glen L	Vice President	1/3/2014
Inyard, Frederick H	Vice President	3/3/1999
Schweiger, Paul G	Vice President	1/3/2014

**Attachment 3  
Principal Questionnaire Form  
Question 5**

**James R. Laurita**

Company	Title
GFEAPC - Gannett Fleming Engineers and Architects, P.C.	Director
GFEAPC - Gannett Fleming Engineers and Architects, P.C.	Chairman
GFEAPC - Gannett Fleming Engineers and Architects, P.C.	President
GFEPC - Gannett Fleming Engineers, P.C.	Director
GFEPC - Gannett Fleming Engineers, P.C.	Chairman
GFINC - Gannett Fleming, Inc.	Senior Vice President

**John W. Kovacs**

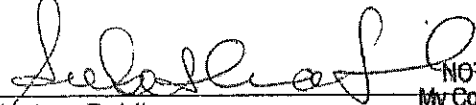
Company	Title
GeoBuild - GeoBuild, LLC	Director
GeoBuild - GeoBuild, LLC	Chairman
GeoBuild - GeoBuild, LLC	Chief Executive Officer
GFEAPC - Gannett Fleming Engineers and Architects, P.C.	Director
GFEAPC - Gannett Fleming Engineers and Architects, P.C.	Senior Vice President
GFEPC - Gannett Fleming Engineers, P.C.	Director
GFEPC - Gannett Fleming Engineers, P.C.	Senior Vice President
GFEPC - Gannett Fleming Engineers, P.C.	Secretary
GFINC - Gannett Fleming, Inc.	Director
GFINC - Gannett Fleming, Inc.	Senior Vice President
GMEXICO - Gannett Fleming México, S. de R.L. de C. V.	Secretary
GMEXICO - Gannett Fleming México, S. de R.L. de C. V.	Member
GFMICHIGAN - Gannett Fleming of Michigan, Inc.	Director
GFMICHIGAN - Gannett Fleming of Michigan, Inc.	Chairman
GFMICHIGAN - Gannett Fleming of Michigan, Inc.	President
HETAGER - L. G. Hetager Drilling, Inc.	Director
HETAGER - L. G. Hetager Drilling, Inc.	Chairman
PUNXSYDRILLING - Punxsy Drilling Company	Director
PUNXSYDRILLING - Punxsy Drilling Company	Chairman

## CERTIFICATION

A MATERIALLY FALSE STATEMENT WILLFULLY OR FRAUDULENTLY MADE IN CONNECTION WITH THIS QUESTIONNAIRE MAY RESULT IN RENDERING THE SUBMITTING BUSINESS ENTITY NOT RESPONSIBLE WITH RESPECT TO THE PRESENT BID OR FUTURE BIDS, AND, IN ADDITION, MAY SUBJECT THE PERSON MAKING THE FALSE STATEMENT TO CRIMINAL CHARGES.

I, James R. Laurita, PE, being duly sworn, state that I have read and understand all the items contained in the foregoing pages of this questionnaire and the following pages of attachments; that I supplied full and complete answers to each item therein to the best of my knowledge, information and belief; that I will notify the County in writing of any change in circumstances occurring after the submission of this questionnaire and before the execution of the contract; and that all information supplied by me is true to the best of my knowledge, information and belief. I understand that the County will rely on the information supplied in this questionnaire as additional inducement to enter into a contract with the submitting business entity.

Sworn to before me this 31 day of March 2016

  
Notary Public **LUKESHWARIE SINGH**  
**NOTARY PUBLIC OF NEW JERSEY**  
My Commission Expires October 21, 2018  
I.D. # 2379185

Name of submitting business: Gannett Fleming Engineers, PC

By: James R. Laurita, PE

Print name

Signature

Director/Chairman

Title

03 / 31 / 2016

Date



### Business History Form

The contract shall be awarded to the responsible proposer who, at the discretion of the County, taking into consideration the reliability of the proposer and the capacity of the proposer to perform the services required by the County, offers the best value to the County and who will best promote the public interest.

In addition to the submission of proposals, each proposer shall complete and submit this questionnaire. The questionnaire shall be filled out by the owner of a sole proprietorship or by an authorized representative of the firm, corporation or partnership submitting the Proposal.

**NOTE: All questions require a response, even if response is "none" or "not-applicable." No blanks.**

(USE ADDITIONAL SHEETS IF NECESSARY TO FULLY ANSWER THE FOLLOWING QUESTIONS).

Date: March 31, 2016

1) Proposer's Legal Name: Gannett Fleming Engineers, PC

2) Address of Place of Business: 100 Crossways Park West, Suite 300, Woodbury, NY 11797

List all other business addresses used within last five years:

N/A

3) Mailing Address (if different): N/A

Phone : (516) 364-4140

Does the business own or rent its facilities? Rent

4) Dun and Bradstreet number: 83-241-9894

5) Federal I.D. Number: 52-2151596

6) The proposer is a (check one):      Sole Proprietorship      Partnership       
Corporation      Other (Describe) Professional Corporation

7) Does this business share office space, staff, or equipment expenses with any other business?  
Yes X No      If Yes, please provide details: The W+M Group subleases GFEPC office space.

8) Does this business control one or more other businesses? Yes      No X If Yes, please provide details:

- 9) Does this business have one or more affiliates, and/or is it a subsidiary of, or controlled by, any other business? Yes X No \_\_\_\_ If Yes, provide details. GFEAPC is an affiliate of GFEPC and the entity is controlled by Gannett Fleming, Inc. The shareholders of GFEPC are James R. Laurita and John W. Kovacs.
- 10) Has the proposer ever had a bond or surety cancelled or forfeited, or a contract with Nassau County or any other government entity terminated? Yes \_\_\_\_ No X If Yes, state the name of bonding agency, (if a bond), date, amount of bond and reason for such cancellation or forfeiture: or details regarding the termination (if a contract). \_\_\_\_\_
- 11) Has the proposer, during the past seven years, been declared bankrupt? Yes \_\_\_\_ No X If Yes, state date, court jurisdiction, amount of liabilities and amount of assets \_\_\_\_\_
- 12) In the past five years, has this business and/or any of its owners and/or officers and/or any affiliated business, been the subject of a criminal investigation and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency? And/or, in the past 5 years, have any owner and/or officer of any affiliated business been the subject of a criminal investigation and/or a civil anti-trust investigation by any federal, state or local prosecuting or investigative agency, where such investigation was related to activities performed at, for, or on behalf of an affiliated business. Yes \_\_\_\_ No X If Yes, provide details for each such investigation. \_\_\_\_\_
- 13) In the past 5 years, has this business and/or any of its owners and/or officers and/or any affiliated business been the subject of an investigation by any government agency, including but not limited to federal, state and local regulatory agencies? And/or, in the past 5 years, has any owner and/or officer of an affiliated business been the subject of an investigation by any government agency, including but not limited to federal, state and local regulatory agencies, for matters pertaining to that individual's position at or relationship to an affiliated business. Yes \_\_\_\_ No X If Yes, provide details for each such investigation. \_\_\_\_\_
- 14) Has any current or former director, owner or officer or managerial employee of this business had, either before or during such person's employment, or since such employment if the charges pertained to events that allegedly occurred during the time of employment by the submitting business, and allegedly related to the conduct of that business:
- a) Any felony charge pending? Yes \_\_\_\_ No X If Yes, provide details for each such charge. \_\_\_\_\_
- b) Any misdemeanor charge pending? Yes \_\_\_\_ No X If Yes, provide details for each such charge. \_\_\_\_\_
- c) In the past 10 years, you been convicted, after trial or by plea, of any felony and/or any other crime, an element of which relates to truthfulness or the underlying facts of which related to the conduct of business? Yes \_\_\_\_ No X

If Yes, provide details for each such conviction \_\_\_\_\_

d) In the past 5 years, been convicted, after trial or by plea, of a misdemeanor?  
Yes \_\_\_\_ No X If Yes, provide details for each such conviction. \_\_\_\_\_

e) In the past 5 years, been found in violation of any administrative, statutory, or  
regulatory provisions? Yes \_\_\_\_ No X If Yes, provide details for each such  
occurrence. \_\_\_\_\_

15) In the past (5) years, has this business or any of its owners or officers, or any other affiliated  
business had any sanction imposed as a result of judicial or administrative proceedings with  
respect to any professional license held? Yes \_\_\_\_ No X; If Yes, provide details for  
each such instance. \_\_\_\_\_

16) For the past (5) tax years, has this business failed to file any required tax returns or failed to  
pay any applicable federal, state or local taxes or other assessed charges, including but not  
limited to water and sewer charges? Yes \_\_\_\_ No X If Yes, provide details for each  
such year. Provide a detailed response to all questions checked 'YES'. If you need more  
space, photocopy the appropriate page and attach it to the questionnaire. \_\_\_\_\_

Provide a detailed response to all questions checked "YES". If you need more space,  
photocopy the appropriate page and attach it to the questionnaire.

17) Conflict of Interest:

a) Please disclose any conflicts of interest as outlined below. **NOTE: If no  
conflicts exist, please expressly state "No conflict exists."**

(i) Any material financial relationships that your firm or any firm employee has  
that may create a conflict of interest or the appearance of a conflict of interest in  
acting on behalf of Nassau County.  
No conflict exists. \_\_\_\_\_

(ii) Any family relationship that any employee of your firm has with any County  
public servant that may create a conflict of interest or the appearance of a conflict  
of interest in acting on behalf of Nassau County.  
No conflict exists. \_\_\_\_\_

(iii) Any other matter that your firm believes may create a conflict of interest or  
the appearance of a conflict of interest in acting on behalf of Nassau County.  
No conflict exists. \_\_\_\_\_

b) Please describe any procedures your firm has, or would adopt, to assure the  
County that a conflict of interest would not exist for your firm in the future.  
Gannett Fleming has a Code of Ethics and Conflict of Interest policy that requires the  
reporting of any potential conflicts to the Ethics Officer, who provides conflict checks  
and advice regarding the avoidance of conflicts of interest.

- A. Include a resume or detailed description of the Proposer's professional qualifications, demonstrating extensive experience in your profession. Any prior similar experiences, and the results of these experiences, must be identified. Please see attached proposal.

Should the proposer be other than an individual, the Proposal **MUST** include: Please see attached proposal.

- i) Date of formation;
  - ii) Name, addresses, and position of all persons having a financial interest in the company, including shareholders, members, general or limited partner;
  - iii) Name, address and position of all officers and directors of the company;
  - iv) State of incorporation (if applicable);
  - v) The number of employees in the firm;
  - vi) Annual revenue of firm;
  - vii) Summary of relevant accomplishments
  - viii) Copies of all state and local licenses and permits.
- B. Indicate number of years in business. 101
- C. Provide any other information which would be appropriate and helpful in determining the Proposer's capacity and reliability to perform these services. Please see attached proposal.
- D. Provide names and addresses for no fewer than three references for whom the Proposer has provided similar services or who are qualified to evaluate the Proposer's capability to perform this work.

Company Nassau County Department of Public Works

Contact Person Joseph Davenport, Pe

Address 1194 Prospect Avenue

City/State Westbury, NY 11590

Telephone (516) 571-9608

Fax # N/A

E-Mail Address jdavenport@nassaucountyny.gov

Company New York City Department of Environmental Protection

Contact Person Jerry Fragias

Address 59-17 Junction Boulevard

City/State Flushing, NY 11373

Telephone (718) 595-4969

Fax # N/A

E-Mail Address jfragias@dep.nyc.gov

~~Personnel Information~~  
Company Suffolk County Department of Public Works

Contact Person Joseph Donovan, PE

Address 335 Yaphank Avenue

City/State Yaphank, NY 11980

Telephone (631) 852-4184

Fax # N/A

E-Mail Address public.works@suffolkcountyny.gov

**CERTIFICATION**

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I, James R. Laurita, PE, being duly sworn, state that I have read and understand all the items contained in the foregoing pages of this questionnaire and the following pages of attachments; that I supplied full and complete answers to each item therein to the best of my knowledge, information and belief; that I will notify the County in writing of any change in circumstances occurring after the submission of this questionnaire and before the execution of the contract; and that all information supplied by me is true to the best of my knowledge, information and belief. I understand that the County will rely on the information supplied in this questionnaire as additional inducement to enter into a contract with the submitting business entity.

Sworn to before me this 31 day of March 2016

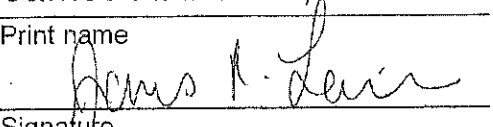
  
Notary Public **LUKESHWARIE SINGH**  
**NOTARY PUBLIC OF NEW JERSEY**  
**My Commission Expires October 21, 2018**  
**I.D. # 2379185**

Gannett Fleming Engineers, PC

Name of submitting business

James R. Laurita, PE

Print name

  
Signature

Director/Chairman

Title

03 , 31 , 2016

Date

COUNTY OF NASSAU  
CONSULTANT'S, CONTRACTOR'S AND VENDOR'S DISCLOSURE FORM

1. Name of the Entity: Gannett Fleming Engineers, P.C.  
Address: Suite 300, 100 Crossways Park West  
City, State and Zip Code: Woodbury, NY 11797-2012

2. Entity's Vendor Identification Number: 52-2151596

3. Type of Business: ☐ Public Corp ☐ Partnership ☐ Joint Venture  
☐ Ltd. Liability Co ☐ Closely Held Corp ☒ Professional Corporation Other (specify)

4. List names and addresses of all principals; that is, all individuals serving on the Board of Directors or comparable body, all partners and limited partners, all corporate officers, all parties of Joint Ventures, and all members and officers of limited liability companies (attach additional sheets if necessary):

Please see attached list of Officers and Directors. (Please refer to the address listed in No. 1.)

5. List names and addresses of all shareholders, members, or partners of the firm. If the shareholder is not an individual, list the individual shareholders/partners/members. If a Publicly held Corporation include a copy of the 10K in lieu of completing this section.

James R. Laurita, PE, Two Penn Plaza, Suite 552, 380 Seventh Avenue, New York, NY 10121

John W. Kovacs, Foster Plaza III, Suite 200, 601 Holiday Drive, Pittsburgh, PA 15220

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6. List all affiliated and related companies and their relationship to the firm entered on line 1. above (if none, enter "None"). Attach a separate disclosure form for each affiliated or subsidiary company that may take part in the performance of this contract. Such disclosure shall be updated to include affiliated or subsidiary companies not previously disclosed that participate in the performance of the contract.

Gannett Fleming, Inc. and Gannett Fleming Engineers and Architects, P.C. are both affiliated with

Gannett Fleming Engineers, P.C. No employees from Gannett Fleming, Inc. will perform work on this

contract. Employees from Gannett Fleming Engineers and Architects, P.C. will take part in the performance

of this contract. Please see the attached Vendor Disclosure Form for Gannett Fleming Engineers and

Architects, P.C.

7. List all lobbyists whose services were utilized at any stage in this matter (i.e., pre-bid, bid, post-bid, etc.). The term "lobbyist" means any and every person or organization retained, employed or designated by any client to influence - or promote a matter before - Nassau County, its agencies, boards, commissions, department heads, legislators or committees, including but not limited to the Open Space and Parks Advisory Committee and Planning Commission. Such matters include, but are not limited to, requests for proposals, development or improvement of real property subject to County regulation, procurements, or to otherwise engage in lobbying as the term is defined herein. The term "lobbyist" does not include any officer, director, trustee, employee, counsel or agent of the County of Nassau, or State of New York, when discharging his or her official duties.

(a) Name, title, business address and telephone number of lobbyist(s):

None/Not Applicable (No lobbying services were utilized by Gannett Fleming related to this proposal/

matter; however, Gannett Fleming E&A P.C. does have a relationship with Park Strategies, which is

registered with Nassau County and New York State and has provided introductions to Nassau County

personnel in the past.)

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Page 3 of 4

(b) Describe lobbying activity of each lobbyist. See page 4 of 4 for a complete description of lobbying activities.

None

(c) List whether and where the person/organization is registered as a lobbyist (e.g., Nassau County, New York State):

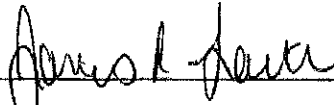
Please see the answer to 7A.

8. VERIFICATION: This section must be signed by a principal of the consultant, contractor or Vendor authorized as a signatory of the firm for the purpose of executing Contracts.

The undersigned affirms and so swears that he/she has read and understood the foregoing statements and they are, to his/her knowledge, true and accurate.

Dated: February 11, 2016

Signed:



Print Name: James R. Laurita, PE

Title: Director/Chairman

**The term lobbying shall mean any attempt to influence:** any determination made by the Nassau County Legislature, or any member thereof, with respect to the introduction, passage, defeat, or substance of any local legislation or resolution; any determination by the County Executive to support, oppose, approve or disapprove any local legislation or resolution, whether or not such legislation has been introduced in the County Legislature; any determination by an elected County official or an officer or employee of the County with respect to the procurement of goods, services or construction, including the preparation of contract specifications, including but not limited to the preparation of requests for proposals, or solicitation, award or administration of a contract or with respect to the solicitation, award or administration of a grant, loan, or agreement involving the disbursement of public monies; any determination made by the County Executive, County Legislature, or by the County of Nassau, its agencies, boards, commissions, department heads or committees, including but not limited to the Open Space and Parks Advisory Committee, the Planning Commission, with respect to the zoning, use, development or improvement of real property subject to County regulation, or any agencies, boards, commissions, department heads or committees with respect to requests for proposals, bidding, procurement or contracting for services for the County; any determination made by an elected county official or an officer or employee of the county with respect to the terms of the acquisition or disposition by the county of any interest in real property, with respect to a license or permit for the use of real property of or by the county, or with respect to a franchise, concession or revocable consent; the proposal, adoption, amendment or rejection by an agency of any rule having the force and effect of law; the decision to hold, timing or outcome of any rate making proceeding before an agency; the agenda or any determination of a board or commission; any determination regarding the calendaring or scope of any legislature oversight hearing; the issuance, repeal, modification or substance of a County Executive Order; or any determination made by an elected county official or an officer or employee of the county to support or oppose any state or federal legislation, rule or regulation, including any determination made to support or oppose that is contingent on any amendment of such legislation, rule or regulation, whether or not such legislation has been formally introduced and whether or not such rule or regulation has been formally proposed.

**Gannett Fleming Engineers, P.C.**

**Officers and Directors**

Last Changed 12/31/2014

* Laurita, James R	Chairman
* Papamichael, Fotios	President
* Papamichael, Fotios	Treasurer
* Kovacs, John W	Senior Vice President
* Kovacs, John W	Secretary
Bartoldus, Doreen M	Vice President
Hadjiyane, Stephen	Vice President
Hadjiyane, Stephen	Assistant Secretary
Hair, Glen L	Vice President
Inyard, Frederick H	Vice President
Schweiger, Paul G	Vice President

\* = Director

COUNTY OF NASSAU

CONSULTANT'S, CONTRACTOR'S AND VENDOR'S DISCLOSURE FORM

1. Name of the Entity: Gannett Fleming Engineers and Architects, PC  
Address: 100 Crossways Park West, Suite 300  
City, State and Zip Code: Woodbury, NY 11797
2. Entity's Vendor Identification Number: 23-2935505
3. Type of Business: ☐ Public Corp ☐ Partnership ☐ Joint Venture  
☐ Ltd. Liability Co ☐ Closely Held Corp ☒ Other (specify)  
Professional Corporation
4. List names and addresses of all principals; that is, all individuals serving on the Board of Directors or comparable body, all partners and limited partners, all corporate officers, all parties of Joint Ventures, and all members and officers of limited liability companies (attach additional sheets if necessary):

Please see attached list of Officers and Directors. (Please refer to the attached form)

5. List names and addresses of all shareholders, members, or partners of the firm. If the shareholder is not an individual, list the individual shareholders/partners/members. If a Publicly held Corporation include a copy of the 10K in lieu of completing this section.

James R. Laurita, PE, Two Penn Plaza, Suite 552, 380 Seventh Ave., New York, NY 10121

John W. Kovacs, Foster Plaza III, Suite 200, 601 Holiday Drive, Pittsburgh, PA 15220

Harry T. Osborne, Southfield Center, Suite 205, One Cragwood Road, South Plainfield, NJ 07080

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6. List all affiliated and related companies and their relationship to the firm entered on line 1. above (if none, enter "None"). Attach a separate disclosure form for each affiliated or subsidiary company that may take part in the performance of this contract. Such disclosure shall be updated to include affiliated or subsidiary companies not previously disclosed that participate in the performance of the contract.

Gannett Fleming Engineers and Architects, PC is an affiliate of Gannett Fleming, Inc. and

Gannett Fleming Engineers, PC. Gannett Fleming, Inc. will not take part in the performance of  
this contract.

7. List all lobbyists whose services were utilized at any stage in this matter (i.e., pre-bid, bid, post-bid, etc.). The term "lobbyist" means any and every person or organization retained, employed or designated by any client to influence - or promote a matter before - Nassau County, its agencies, boards, commissions, department heads, legislators or committees, including but not limited to the Open Space and Parks Advisory Committee and Planning Commission. Such matters include, but are not limited to, requests for proposals, development or improvement of real property subject to County regulation, procurements, or to otherwise engage in lobbying as the term is defined herein. The term "lobbyist" does not include any officer, director, trustee, employee, counsel or agent of the County of Nassau, or State of New York, when discharging his or her official duties.

(a) Name, title, business address and telephone number of lobbyist(s):

None/ Not applicable (No lobbying services were utilized by Gannett Fleming related to this proposal/  
matter; however, Gannett Fleming Engineers & Architects PC does have a relationship with Park Strategies,  
which is registered with Nassau County and New York State and has provided introductions to Nassau  
County personnel in the past.)

Page 3 of 4

(b) Describe lobbying activity of each lobbyist. See page 4 of 4 for a complete description of lobbying activities.

Please see answer to 7A

(c) List whether and where the person/organization is registered as a lobbyist (e.g., Nassau County, New York State):

Please see answer to 7A.

8. VERIFICATION: This section must be signed by a principal of the consultant, contractor or Vendor authorized as a signatory of the firm for the purpose of executing Contracts.

The undersigned affirms and so swears that he/she has read and understood the foregoing statements and they are, to his/her knowledge, true and accurate.

Dated: February 11, 2016

Signed:



Print Name: James R. Laurita, PE

Title: President

Page 4 of 4:

**The term lobbying shall mean any attempt to influence:** any determination made by the Nassau County Legislature, or any member thereof, with respect to the introduction, passage, defeat, or substance of any local legislation or resolution; any determination by the County Executive to support, oppose, approve or disapprove any local legislation or resolution, whether or not such legislation has been introduced in the County Legislature; any determination by an elected County official or an officer or employee of the County with respect to the procurement of goods, services or construction, including the preparation of contract specifications, including by not limited to the preparation of requests for proposals, or solicitation, award or administration of a contract or with respect to the solicitation, award or administration of a grant, loan, or agreement involving the disbursement of public monies; any determination made by the County Executive, County Legislature, or by the County of Nassau, its agencies, boards, commissions, department heads or committees, including but not limited to the Open Space and Parks Advisory Committee, the Planning Commission, with respect to the zoning, use, development or improvement of real property subject to County regulation, or any agencies, boards, commissions, department heads or committees with respect to requests for proposals, bidding, procurement or contracting for services for the County; any determination made by an elected county official or an officer or employee of the county with respect to the terms of the acquisition or disposition by the county of any interest in real property, with respect to a license or permit for the use of real property of or by the county, or with respect to a franchise, concession or revocable consent; the proposal, adoption, amendment or rejection by an agency of any rule having the force and effect of law; the decision to hold, timing or outcome of any rate making proceeding before an agency; the agenda or any determination of a board or commission; any determination regarding the calendaring or scope of any legislature oversight hearing; the issuance, repeal, modification or substance of a County Executive Order; or any determination made by an elected county official or an officer or employee of the county to support or oppose any state or federal legislation, rule or regulation, including any determination made to support or oppose that is contingent on any amendment of such legislation, rule or regulation, whether or not such legislation has been formally introduced and whether or not such rule or regulation has been formally proposed.

**Gannett Fleming Engineers and Architects, PC****Vendor Disclosure Form Question 4**

<b>Name</b>	<b>Business Address</b>	<b>Telephone</b>
Doreen M. Bartoldus	100 Crossways Park West Woodbury, NY 11797	(516) 6364-4140
Charles H. Beauduy	207 Senate Ave. Camp Hill, PA 17011	(717) 762-8150
Thomas Daley	333 Elm Street Dedham, MA 02026	(781) 326-4605
Stephen Gerlach	7133 Rutherford Rd Baltimore, MD 21244	(443) 348-2017
Glen L. Hair	207 Senate Ave. Camp Hill, PA 17011	(717) 762-8150
Stephen Hadjiyane	100 Crossways Park West Woodbury, NJ 11797	(516) 6364-4140
Steven I. Hawtof	7133 Rutherford Rd Baltimore, MD 21244	(443) 348-2017
Arthur G. Hoffman, Jr.	207 Senate Ave. Camp Hill, PA 17011	(717) 762-8150
Rodney E. Holderbaum	207 Senate Ave. Camp Hill, PA 17011	(717) 762-8150
Frederick H. Inyard	100 Crossways Park West Woodbury, NY 11797	(516) 6364-4140
John R. Kenny	3838 North Central Ave. Phoenix, AZ 85012	(602) 553-8817
John W. Kovacs	730 Holiday Drive Pittsburgh, PA 15220	(412) 922-5575
James R. Laurita	Two Penn Plaza, 380 Seventh Ave. New York, NY 10121	(212) 268-6684
George S. Link	5 Eves Drive Marlton, NJ 08053	(856) 396-2226
Michael T. McNamara	1010 Adams Ave Audubon, PA 19403	(610) 650-8101
Donald G. Morosky	207 Senate Ave. Camp Hill, PA 17011	(717) 762-8150
Bryan P. Mulqueen	2610 Wycliff Road Raleigh, NC 27607	(919) 420-7611
Charles R. Norrish, III	2189 Silas Deane Highway Rocky Hill, CT 06067	(860) 529-8700
Harry T. Osborne	1 Cragwood Rd South Plainfield, NJ 07080	(908) 755-0040
Fotios Pappmichael	100 Crossways Park West Woodbury, NY 11797	(516) 6364-4140
John D. Purdy	Two Penn Plaza, 380 Seventh Ave. New York, NY 10121	(212) 268-6684
Thomas B. Pursel	207 Senate Ave. Camp Hill, PA 17011	(717) 762-8150



Joseph Rikk, Jr.	4151 Executive Parkway Westerville, OH 43081	(614) 794-9424
Warren A. Barrett	7133 Rutherford Rd., Baltimore, MD 21244	(443) 348-2017
Giuseppe Tulumello	Two Penn Plaza, 380 Seventh Ave. New York, NY 10121	(212) 268-6684
Mitchell W. Weber	300 North Cleveland- Massillon Rd Akron, OH 44333	(330) 668-8800

RULES RESOLUTION NO.    – 2016

A RESOLUTION AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE A PERSONAL SERVICES AGREEMENT BETWEEN THE COUNTY OF NASSAU, ACTING ON BEHALF OF THE NASSAU COUNTY DEPARTMENT OF PUBLIC WORKS AND GANNETT FLEMING ENGINEERS, P.C.

WHEREAS, the County has negotiated a personal services agreement with Gannett Fleming Engineers, P.C. for construction management services for Flood Protection Phase I- Stormwater Pumping Stations project at the Bay Park Sewage Treatment Plant, a copy of which is on file with the Clerk of the Legislature; now, therefore, be it

RESOLVED, that the Rules Committee of the Nassau County Legislature authorize the County Executive to execute the said agreement with Gannett Fleming Engineers, P.C.

## CONTRACT FOR SERVICES

THIS AGREEMENT (together with the schedules, appendices, attachments and exhibits, if any, this "Agreement"), dated as of the date this Agreement is executed by the County of Nassau, between (i) Nassau County, a municipal corporation having its principal office at 1550 Franklin Avenue, Mineola, New York 11501 (the "County") acting on behalf of the County Department of Public Works, having its principal office at 1194 Prospect Avenue, Westbury, New York 11590 (the "Department") and (ii) Gannett Fleming Engineers P.C., a consulting engineering firm having its principal office at 100 Crossways Park West, Suite 300, Woodbury, New York 11797 (the "Firm" or "Contractor")..

### W I T N E S S E T H:

WHEREAS, the County desires to hire the Firm to perform the services described in this Agreement; and

WHEREAS, the Firm desires to perform the services described in this Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained in this Agreement, the parties agree as follows:

1. Term.

This term of this Agreement shall commence on the date on which this Agreement is executed by the County (the "Commencement Date") and terminate on the twenty seventh (27<sup>th</sup>) month anniversary of the Commencement Date (the "Expiration Date") unless sooner terminated or extended in accordance with its terms. Notwithstanding the foregoing, the Department, in its sole discretion, shall have the right to extend this Agreement one year delivering a notice of extension to the Firm at least thirty (30) days prior to the Expiration Date. The Agreement so extended shall be on the same terms, conditions and covenants as during the initial term except that the Expiration Date shall be modified in accordance with the notice of extension.

2. Services.

(a) The services to be provided by the Firm under this Agreement for the Flood Protection Phase I – Stormwater Pumping Stations project at the Bay Park Sewage Treatment Plant shall consist of those specific work divisions and deliverables as enumerated in the "Detailed Scope of Services," attached hereto and hereby made a part hereof as Exhibit "A".

(b) At any time during the term of this Agreement, the County may, in its sole and absolute discretion, require the Firm to perform Extra Services. The Firm shall not perform, nor be compensated for, Extra Services without the prior written approval of the Commissioner. The Firm agrees to perform any such Extra Services in accordance with the terms and conditions contained in this Agreement. As used herein, "Extra Services" means additional services which are (i) generally within the scope of services set forth in this Agreement, (ii) necessary or in

furtherance of the goals of this Agreement and (iii) not due to the fault or negligence of the Contractor.

(c) The following items are not included in the Firm's fee, and shall be reimbursable at an actual cost as expenditures in the interest of the project, provided (i) they have been approved in advance by the Commissioner of the Department in writing, in his/her sole discretion, (ii) are not considered services as set forth in this Agreement, and (iii) subject to compliance with the County's bill paying procedures:

- (1) The direct cost of expenses for travel to locations other than the County and or the project site, including transportation (coach unless otherwise authorized by the County), reasonable meal and lodging expenses, at rates established by the County for its own employees, and as have been approved in advance by the County.
- (2) Testing Laboratory Services.
- (3) Messenger service and cables as not necessarily incurred in the performance of services hereunder by the Firm and their sub-consultants.
- (4) Final models, photographs and renderings as requested by the County.
- (5) Reproduction of design development and construction document drawings, specification, reports and other documents furnished to, or on behalf of, the County in excess of five (5) copies each. Any items prepared on behalf of the Firm or their sub-consultants shall not be paid for by the County.
- (6) Other comparable expenses as approved by the County.

### 3. Payment.

(a) Amount of Consideration. The amount to be paid to the Firm as full consideration for the Firm's services under this Agreement, including any extra services that may be so authorized, shall be payable as itemized in the "Payment Schedule," attached hereto and made a hereby part hereof as Exhibit "B". Notwithstanding the foregoing, the maximum amount to be paid the Firm's services under this Agreement, including any Extra Services that may so be authorized, shall not exceed One Million Three Hundred Thirty Thousand Seven Hundred Ninety Four (\$1,330,794) dollars.

(b) Vouchers; Voucher Review, Approval and Audit. Payments shall be made to the Firm in arrears and shall be contingent upon (i) the Firm submitting a claim voucher (the "Voucher") in a form satisfactory to the County, that (a) states with reasonable specificity the services provided and the payment requested as consideration for such services, (b) certifies that the services rendered and the payment requested are in accordance with this Agreement, and (c) is accompanied by documentation satisfactory to the County supporting the amount claimed, and (ii) review, approval and audit of the Voucher by the Department and/or the County Comptroller or his or her duly designated representative (the "Comptroller").

(c) Timing of Claims for Payment. The Firm shall submit claims no later than three (3) months following the County's receipt of the services that are the subject of the claim and no more frequently than once a month.

(d) No Duplication of Payments. Payments under this Agreement shall not duplicate payments for any work performed or to be performed under other agreements between the Firm and any funding source including the County.

(e) Payments in Connection with Termination or Notice of Termination. Unless a provision of this Agreement expressly states otherwise, payments to the Firm following the termination of this Agreement shall not exceed payments made as consideration for services that were (i) performed prior to termination, (ii) authorized by this Agreement to be performed, and (iii) not performed after the Firm received notice that the County did not desire to receive such services.

(f) Payments Relating to Services Rendered by Subcontractors. The County retains the right, but not the obligation, prior to making any payment to the Firm, to demand that the Firm furnish to the County, proof acceptable to the County, in its sole and absolute discretion, that all due and payable claims made by subcontractors in connection with this Agreement have been paid to date or are included in the amount being requested by the Firm.

#### 4. Ownership and Control of Work Product

(a) Copyrights.

(i) Upon execution of this Agreement, any reports, documents, data, photographs and/or other materials produced pursuant to this Agreement, and any and all drafts and/or other preliminary materials in any format related to such items, shall become the exclusive property of the County.

(ii) Any reports, documents, data, photographs and/or other materials produced pursuant to this Agreement ("Copyrightable Materials") shall be considered "work-made-for-hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. §101, and the County shall be the copyright owner thereof and of all aspects, elements and components thereof in which copyright protection might exist. To the extent that the Copyrightable Materials do not qualify as "work-made-for-hire," the Firm hereby irrevocably transfers, assigns and conveys exclusive copyright ownership in and to the Copyrightable Materials to the County, free and clear of any liens, claims, or other encumbrances. The Firm shall retain no copyright or intellectual property interest in the Copyrightable Materials, and they shall be used by the Firm for no other purpose without the prior written permission of the County.

(iii) The Firm acknowledges that the County may, in its sole discretion, register copyright in the Copyrightable Materials with the U.S. Copyright Office or any other government agency authorized to grant copyright registrations. The Firm shall cooperate in this effort, and agrees to provide any further documentation necessary to accomplish this.

(iv) The Firm represents and warrants that the Copyrightable Materials: (1) are wholly original material not published elsewhere (except for material that is in the public domain); (2) do not violate any copyright law; (3) do not constitute defamation or invasion of the right of privacy or publicity, and (4) are not an infringement of any kind, of the rights of any third party. To the extent that the Copyrightable Materials incorporate any non-original material, the Firm has obtained all necessary permissions and clearances, in writing, for the use of such non-original material under this Agreement, copies of which shall be provided to the County upon execution of this Agreement.

(b) Patents and Inventions. Any discovery or invention arising out of or developed in the course of performance of this Agreement shall be promptly and fully reported to the Department, and if this work is supported by a federal grant of funds, shall be promptly and fully reported to the Federal Government for determination as to whether patent protection on such invention shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered in order to protect the public interest.

(c) Pre-existing Rights. In no case shall 4(a) or 4(b) above apply to, or prevent the Firm from asserting or protecting its rights in any report, document or other data, or any invention which existed prior to or was developed or discovered independently from the activities directly related to this Agreement.

(d) Infringements of Patents, Trademarks, and Copyrights. The Firm shall indemnify and hold the County harmless against any claim for any infringement by the Firm of any copyright, trade secrets, trademark or patent rights of design, systems, drawings, graphs, charts, specifications or printed matter furnished or used by the Firm in the performance of this Agreement. The Firm shall indemnify and hold the County harmless regardless of whether or not the infringement arises out of compliance with the scope of services/scope of work.

(e) Antitrust. The Firm hereby assigns, sells, and transfers to the County all right, title and interest in and to any claims and causes of action arising under the antitrust laws of the State of New York or of the United States relating to the particular goods or services procured by the County under this Agreement.

5. Independent Contractor. The Firm is an independent contractor of the County. The Firm shall not, nor shall any officer, director, employee, servant, agent or independent contractor of the Firm (a "Contractor Agent"), be (i) deemed a County employee, (ii) commit the County to any obligation, or (iii) hold itself, himself, or herself out as a County employee or Person with the authority to commit the County to any obligation. As used in this Agreement the word "Person" means any individual person, entity (including partnerships, corporations and limited liability companies), and government or political subdivision thereof (including agencies, bureaus, offices and departments thereof).

6. No Arrears or Default. The Firm is not in arrears to the County upon any debt or contract and it is not in default as surety, Firm, or otherwise upon any obligation to the County, including any obligation to pay taxes to, or perform services for or on behalf of, the County.

7. Compliance with Law.

(a) Generally. The Firm shall comply with any and all applicable Federal, State and local Laws, including, but not limited to those relating to conflicts of interest, human rights, a living wage, and disclosure of information, in connection with its performance under this Agreement. In furtherance of the foregoing, the Firm is bound by and shall comply with the terms of Appendices "EE" attached hereto and hereby made a part hereof. As used in this Agreement the word "Law" includes any and all statutes, local laws, ordinances, rules, regulations, applicable orders, and/or decrees, as the same may be amended from time to time, enacted, or adopted.

(b) Nassau County Living Wage Law. Pursuant to LL 1-2006, as amended, and to the

extent that a waiver has not been obtained in accordance with such law or any rules of the County Executive, the Firm agrees as follows:

- (i) Firm shall comply with the applicable requirements of the Living Wage Law, as amended;
- (ii) Failure to comply with the Living Wage Law, as amended, may constitute a material breach of this Agreement, such breach being determined solely by the County. Firm has the right to cure such breach within thirty days of receipt of notice of breach from the County. In the event that such breach is not timely cured, the County may terminate this Agreement as well as exercise any other rights available to the County under applicable law.
- (iii) On a yearly basis, Firm shall provide the County with any material changes to its Certificate of Compliance, attached hereto and hereby made a part hereof as Appendix "L."

(c) Records Access. The parties acknowledge and agree that all records, information, and data ("Information") acquired in connection with performance or administration of this Agreement shall be used and disclosed solely for the purpose of performance and administration of the contract or as required by law. The Firm acknowledges that Firm Information in the County's possession may be subject to disclosure under Article 6 of the New York State Public Officer's Law ("Freedom of Information Law" or "FOIL"). In the event that such a request for disclosure is made, the County shall make reasonable efforts to notify the Firm of such request prior to disclosure of the Information so that the Firm may take such action as it deems appropriate.

(d) Protection of Client Information. The firm acknowledges and agrees that all information that the Firm acquires in connection with the performance under this Agreement shall be strictly confidential, used solely for the purpose of performing services to or on behalf of the County, and shall not be disclosed to third parties except (i) as permitted under this Agreement, (ii) with the written consent of the County (and then only to the extent of the consent), or (iii) upon legal compulsion.

8. Minimum Service Standards. Regardless of whether required by Law:

(a) The Firm shall, and shall cause Firm Agents to, conduct its, his or her activities in connection with this Agreement so as not to endanger or harm any Person or property.

(b) The Firm shall deliver services under this Agreement in a professional manner consistent with the best practices of the industry in which the Firm operates. The Firm shall take all actions necessary or appropriate to meet the obligation described in the immediately preceding sentence, including obtaining and maintaining, and causing all Firm Agents to obtain and maintain, all approvals, licenses, and certifications ("Approvals") necessary or appropriate in connection with this Agreement.

9. Indemnification; Defense; Cooperation.

(a) The Firm shall be solely responsible for and shall indemnify and hold harmless the County, the Department and its officers, employees, and agents (the "Indemnified Parties") from and against any and all liabilities, losses, costs, expenses (including, without limitation, attorneys' fees and disbursements) and damages ("Losses"), arising out of or in connection with any acts or

omissions of the Firm or a Firm Agent, regardless of whether due to negligence, fault, or default, including Losses in connection with any threatened investigation, litigation or other proceeding or preparing a defense to or prosecuting the same; provided, however, that the Firm shall not be responsible for that portion, if any, of a Loss that is caused by the negligence of the County.

(b) The Firm shall, upon the County's demand and at the County's direction, promptly and diligently defend, at the Firm's own risk and expense, any and all suits, actions, or proceedings which may be brought or instituted against one or more Indemnified Parties for which the Firm is responsible under this Section, and, further to the Firm's indemnification obligations, the Firm shall pay and satisfy any judgment, decree, loss or settlement in connection therewith.

(c) The Firm shall, and shall cause Firm Agents to, cooperate with the County and the Department in connection with the investigation, defense or prosecution of any action, suit or proceeding in connection with this Agreement, including the acts or omissions of the Firm and/or a Firm Agent in connection with this Agreement.

(d) The provisions of this Section shall survive the termination of this Agreement.

10. Insurance.

(a) Types and Amounts. The Firm shall obtain and maintain throughout the term of this Agreement, at its own expense: (i) one or more policies for commercial general liability insurance, which policy(ies) shall name "Nassau County" as an additional insured and have a minimum single combined limit of liability of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate coverage, (ii) if contracting in whole or part to provide professional services, one or more policies for professional liability insurance, which policy(ies) shall have a minimum single combined limit liability of not less than two million dollars (\$2,000,000) per occurrence and four million dollars (\$4,000,000) aggregate coverage, (iii) compensation insurance for the benefit of the Firm's employees ("Workers' Compensation Insurance"), which insurance is in compliance with the New York State Workers' Compensation Law, and (iv) such additional insurance as the County may from time to time specify.

(b) Acceptability; Deductibles; Subcontractors. All insurance obtained and maintained by the Firm pursuant to this Agreement shall be (i) written by one or more commercial insurance carriers licensed to do business in New York State and acceptable to the County, and which is (ii) in form and substance acceptable to the County. The Firm shall be solely responsible for the payment of all deductibles to which such policies are subject. The Firm shall require any subcontractor hired in connection with this Agreement to carry insurance with the same limits and provisions required to be carried by the Firm under this Agreement.

(c) Delivery; Coverage Change; No Inconsistent Action. Prior to the execution of this Agreement, copies of current certificates of insurance evidencing the insurance coverage required by this Agreement shall be delivered to the Department. Not less than thirty (30) days prior to the date of any expiration or renewal of, or actual, proposed or threatened reduction or cancellation of coverage under, any insurance required hereunder, the Firm shall provide written notice to the Department of the same and deliver to the Department renewal or replacement certificates of insurance. The Firm shall cause all insurance to remain in full force and effect throughout the term of this Agreement and shall not take or omit to take any action that would suspend or invalidate any of the required coverages. The failure of the Firm to maintain Workers'



Compensation Insurance shall render this contract void and of no effect. The failure of the Firm to maintain the other required coverages shall be deemed a material breach of this Agreement upon which the County reserves the right to consider this Agreement terminated as of the date of such failure.

11. Assignment; Amendment; Waiver; Subcontracting. This Agreement and the rights and obligations hereunder may not be in whole or part (i) assigned, transferred or disposed of, (ii) amended, (iii) waived, or (iv) subcontracted, without the prior written consent of the County Executive or his or her duly designated deputy (the "County Executive"), and any purported assignment, other disposal or modification without such prior written consent shall be null and void. The failure of a party to assert any of its rights under this Agreement, including the right to demand strict performance, shall not constitute a waiver of such rights.

12. Termination.

(a) Generally. This Agreement may be terminated (i) for any reason by the County upon thirty (30) days' written notice to the Firm, (ii) for "Cause" by the County immediately upon the receipt by the Firm of written notice of termination, (iii) upon mutual written Agreement of the County and the Firm, and (iv) in accordance with any other provisions of this Agreement expressly addressing termination.

As used in this Agreement the word "Cause" includes: (i) a breach of this Agreement; (ii) the failure to obtain and maintain in full force and effect all Approvals required for the services described in this Agreement to be legally and professionally rendered; and (iii) the termination or impending termination of federal or state funding for the services to be provided under this Agreement.

(b) By the Firm. This Agreement may be terminated by the Firm if performance becomes impracticable through no fault of the Firm, where the impracticability relates to the Firm's ability to perform its obligations and not to a judgment as to convenience or the desirability of continued performance. Termination under this subsection shall be effected by the Firm delivering to the commissioner or other head of the Department (the "Commissioner"), at least sixty (60) days prior to the termination date (or a shorter period if sixty days' notice is impossible), a notice stating (i) that the Firm is terminating this Agreement in accordance with this subsection, (ii) the date as of which this Agreement will terminate, and (iii) the facts giving rise to the Firm's right to terminate under this subsection. A copy of the notice given to the Commissioner shall be given to the Deputy County Executive who oversees the administration of the Department (the "Applicable DCE") on the same day that notice is given to the Commissioner.

(c) Firm Assistance upon Termination. In connection with the termination or impending termination of this Agreement the Firm shall, regardless of the reason for termination, take all actions reasonably requested by the County (including those set forth in other provisions of this Agreement) to assist the County in transitioning the Firm's responsibilities under this Agreement. The provisions of this subsection shall survive the termination of this Agreement.

13. Accounting Procedures; Records. The Firm shall maintain and retain, for a period of six (6) years following the later of termination of or final payment under this Agreement, complete and accurate records, documents, accounts and other evidence, whether maintained electronically or manually ("Records"), pertinent to performance under this Agreement. Records shall be maintained in accordance with Generally Accepted Accounting Principles and, if the Firm

is a non-profit entity, must comply with the accounting guidelines set forth in the federal Office of Management & Budget Circular A-122, "Cost Principles for Non-Profit Organizations." Such Records shall at all times be available for audit and inspection by the Comptroller, the Department, any other governmental authority with jurisdiction over the provision of services hereunder and/or the payment therefore, and any of their duly designated representatives. The provisions of this Section shall survive the termination of this Agreement.

14. Limitations on Actions and Special Proceedings against the County. No action or special proceeding shall lie or be prosecuted or maintained against the County upon any claims arising out of or in connection with this Agreement unless:

(a) Notice. At least thirty (30) days prior to seeking relief the Firm shall have presented the demand or claim(s) upon which such action or special proceeding is based in writing to the Applicable DCE for adjustment and the County shall have neglected or refused to make an adjustment or payment on the demand or claim for thirty (30) days after presentment. The Firm shall send or deliver copies of the documents presented to the Applicable DCE under this Section to each of (i) the Department and the (ii) the County Attorney (at the address specified above for the County) on the same day that documents are sent or delivered to the Applicable DCE. The complaint or necessary moving papers of the Firm shall allege that the above-described actions and inactions preceded the Firm's action or special proceeding against the County.

(b) Time Limitation. Such action or special proceeding is commenced within the earlier of (i) one (1) year of the first to occur of (A) final payment under or the termination of this Agreement, and (B) the accrual of the cause of action, and (ii) the time specified in any other provision of this Agreement.

15. Work Performance Liability. The Firm is and shall remain primarily liable for the successful completion of all work in accordance this Agreement irrespective of whether the Firm is using a Firm Agent to perform some or all of the work contemplated by this Agreement, and irrespective of whether the use of such Firm Agent has been approved by the County.

16. Consent to Jurisdiction and Venue; Governing Law. Unless otherwise specified in this Agreement or required by Law, exclusive original jurisdiction for all claims or actions with respect to this Agreement shall be in the Supreme Court in Nassau County in New York State and the parties expressly waive any objections to the same on any grounds, including venue and forum non conveniens. This Agreement is intended as a contract under, and shall be governed and construed in accordance with, the Laws of New York State, without regard to the conflict of laws provisions thereof.

17. Notices. Any notice, request, demand or other communication required to be given or made in connection with this Agreement shall be (a) in writing, (b) delivered or sent (i) by hand delivery, evidenced by a signed, dated receipt, (ii) postage prepaid via certified mail, return receipt requested, or (iii) overnight delivery via a nationally recognized courier service, (c) deemed given or made on the date the delivery receipt was signed by a County employee, three (3) business days after it is mailed or one (1) business day after it is released to a courier service, as applicable, and (d)(i) if to the Department, to the attention of the Commissioner at the address specified above for the Department, (ii) if to an Applicable DCE, to the attention of the Applicable DCE (whose name the Firm shall obtain from the Department) at the address specified above for the County, (iii) if to the Comptroller, to the attention of the Comptroller at 240 Old Country Road, Mineola, NY 11501, and (iv) if to the Firm, to the attention of the person who executed this Agreement on

behalf of the Firm at the address specified above for the Firm, or in each case to such other persons or addresses as shall be designated by written notice.

18. All Legal Provisions Deemed Included; Severability; Supremacy and Construction.

(a) Every provision required by Law to be inserted into or referenced by this Agreement is intended to be a part of this Agreement. If any such provision is not inserted or referenced or is not inserted or referenced in correct form then (i) such provision shall be deemed inserted into or referenced by this Agreement for purposes of interpretation and (ii) upon the application of either party this Agreement shall be formally amended to comply strictly with the Law, without prejudice to the rights of either party.

(b) In the event that any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(c) Unless the application of this subsection will cause a provision required by Law to be excluded from this Agreement, in the event of an actual conflict between the terms and conditions set forth above the signature page to this Agreement and those contained in any schedule, exhibit, appendix, or attachment to this Agreement, the terms and conditions set forth above the signature page shall control. To the extent possible, all the terms of this Agreement should be read together as not conflicting.

(d) Each party has cooperated in the negotiation and preparation of this Agreement. Therefore, in the event that construction of this Agreement occurs, it shall not be construed against either party as drafter.

19. Section and Other Headings. The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

20. Entire Agreement. This Agreement represents the full and entire understanding and agreement between the parties with regard to the subject matter hereof and supersedes all prior agreements (whether written or oral) of the parties relating to the subject matter of this Agreement.

21. Administrative Service Charge. The Firm agrees to pay the County an administrative service charge of Five Hundred Thirty Three Dollars (\$533.00) for the processing of this Agreement pursuant to Ordinance Number 74-1979, as amended by Ordinance Number 128-2006. The administrative service charge shall be due and payable to the County by the Firm upon signing this Agreement.

22. Joint Venture.

(a) If the Firm is comprised of more than one legal entity or any group of partners or joint venturers associated for the purpose of undertaking this Agreement, each such entity acknowledges and hereby affirmatively represents and agrees that each has the power to bind the Firm and each of the others hereunder; and as such, each acts both as principal and agent of the Firm and of each of the others hereunder. Each further acknowledges and agrees that all such

entities, partners or joint venturers associated for the purposes of undertaking this Agreement shall be jointly and severally liable to third parties, including but not limited to the County, for the acts or omissions of the Firm or any other entity, partner or joint venturer hereunder.

(b) If the Contractor is comprised of more than one legal entity or any group of partners or joint venturers associated for the purposes of undertaking this agreement, each such entity acknowledges and hereby affirmatively represents and agrees that the respective rights, duties and liabilities of each hereunder shall be governed by the laws of the State of New York, including but not limited to the New York Partnership Law.

23. Executory Clause. Notwithstanding any other provision of this Agreement:

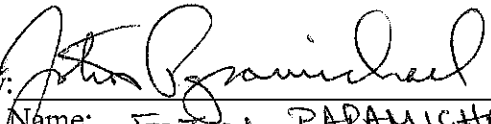
(a) Approval and Execution. The County shall have no liability under this Agreement (including any extension or other modification of this Agreement) to any Person unless (i) all County approvals have been obtained, including, if required, approval by the County Legislature, and (ii) this Agreement has been executed by the County Executive (as defined in this Agreement).

(b) Availability of Funds. The County shall have no liability under this Agreement (including any extension or other modification of this Agreement) to any Person beyond funds appropriated or otherwise lawfully available for this Agreement, and, if any portion of the funds for this Agreement are from the state and/or federal governments, then beyond funds available to the County from the state and/or federal governments.

{Remainder of page intentionally lefty blank}

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

GANNETT FLEMING ENGINEERS, P.C.

By:   
Name: FOTIOS PAPAMICHAEL  
Title: PRESIDENT  
Date: 12/23/2015

NASSAU COUNTY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: County Executive  
☐ Deputy County Executive  
Date: \_\_\_\_\_

PLEASE EXECUTE IN BLUE INK

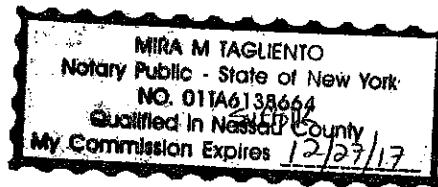
STATE OF NEW YORK)

)ss.:

COUNTY OF NASSAU )

On the 23 day of December in the year 2015 before me personally came Fotis Papamichael to me personally known, who, being by me duly sworn, did depose and say that he or she resides in the County of [REDACTED]; that he or she is the President of Gannett Fleming Engineers, P.C., the corporation described herein and which executed the above instrument; and that he or she signed his or her name thereto by authority of the board of directors of said corporation.

  
NOTARY PUBLIC



STATE OF NEW YORK)

)ss.:

COUNTY OF NASSAU )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2015 before me personally came \_\_\_\_\_ to me personally known, who, being by me duly sworn, did depose and say that he or she resides in the County of \_\_\_\_\_; that he or she is County Executive of the County of Nassau, the municipal corporation described herein and which executed the above instrument; and that he or she signed his or her name thereto pursuant to Section 205 of the County Government Law of Nassau County.

NOTARY PUBLIC

## EXHIBIT "A"

### DETAILED SCOPE OF SERVICES

The FIRM shall provide comprehensive construction and post-construction phase services. The scope of services to be performed in the respective phases (which will overlap) is summarized below.

#### Construction Phase Services

Commencement and Duration - The Construction Phase will commence with the award of a construction contract for the project and will terminate upon final acceptance of the Project in its entirety by the County. The construction phase is scheduled for 25 months. The CM should include one (1) month of pre-construction duties and one (1) month post-construction duties as noted in Section 1 in their proposal.

General Construction Administration - The CM shall provide administration of the Project and shall administer all construction contracts on the County's behalf. This project is being built under a Project Labor Agreement (PLA) using a single prime Construction Contractor ("CC"). The Program Manager will perform as the PLA administrator of Nassau County's Master Project Labor Agreement as amended for this project, and will advise the CM of the PLA requirements for this particular project. The CM will be provided a copy of "the Procedure Manual for Project Management" prepared by the Nassau County Department of Public Works, as a guide to the County's standard administrative procedures, as well as a copy of the Bay Park Program Construction Management Manual, prepared on behalf of the County by the PM. Administer the construction of the Project, including scheduling of the Work and coordination of the Construction Contractor (CC). The CM shall maintain competent full-time staff at the project site to administer the project, at all times Work is being performed by CC. The FIRM shall furnish his staff with personal equipment required for project administration, including, but not limited to personal protective equipment, digital cameras, cellular telephones, etc.

Site Conditions - As portions of the Work become accessible, CM shall promptly and diligently investigate existing conditions and report to the County, the Program Manager and the Design Engineer, those conditions which differ substantially from the information contained in the Construction Documents. Collaborate with the County, the Program Manager and the Design Engineer to devise appropriate modifications to the Contract Documents.

Quality Assurance - The FIRM shall create and implement a Quality Assurance Program consisting, at the minimum, of testing, controlled inspection, and the CM's routine observation of the Work of the CC with respect to conformance to the Construction Documents, based upon the guidelines presented in the Bay Park Program Construction Management Manual. The CM shall endeavor to guard the Owner against defects and deficiencies in the Work, and shall coordinate testing and controlled inspection by third parties with the Work of the CC. The CM shall promptly notify the County, Program Manager, Design Engineer, and CC, as applicable, of defective, deficient, and/or non-conforming Work, and shall make recommendations for correction/resolution. Track all defective and non-conforming Work through correction until final acceptance by the County.

Scheduling - The CC shall prepare the Master Construction Schedule (baseline) and monthly updates. This Schedule shall be prepared using the critical path method and Primavera P6 (or later version) software as approved, and shall be broken down in sufficient detail to be useful for monitoring progress, delay analysis, and administering the CC's contract provisions. The schedule shall be cost and resource loaded by the CC. The CM is responsible for monitoring the accuracy and completeness of the CPM Schedule, to review the Baseline and updates, provide analysis of delay, preparation of reports as required by the County, negotiation of delay claims and recommendation for recovery or

necessary changes to complete the project within budget and schedule. The CM is responsible for the detailed review of all logic, logic changes, durations, Work Breakdown Structure (WBS), resource and cost loading and acceptance. The CM shall evaluate CC's requests for extension of the Contract time, and advise the County confidentially on the quantum and merits of such requests. The CC shall update the Master Schedule monthly to show progress, compile 2-week look-ahead schedules from the Master Schedule and augment same.. The CM shall follow up with the CC who will prepare Schedule updates as necessary to reflect changes and show the impact of changes to the critical path and completion milestones. The CM shall review in a timely manner as per contract specifications. Upon approval of the baseline and subsequent to each monthly update, the CM shall prepare/distribute the schedule report consisting of project status, current critical issues, upcoming concerns, analysis of attribution of delays and suggested recovery by CC, and shall provide information to the PM for integration to and updating of the Program Master Schedule and shall discuss and agree upon recovery steps with the Program Manager.

Cash Flow Forecast - With the cooperation of the CC, CM shall prepare a cash flow forecast for the entire project, based on the project schedule, and shall revise same, whenever there is a significant change in the schedule that would warrant a revision to the cash flow forecast. The baseline cash flow forecast and all revisions shall also be forwarded to the PM for integration into the Master Program Budget and Cost Forecasting Tool.

Monitor Progress - Monitor the progress of the CC's work and prepare written daily reports documenting the type and location of work performed, the CC's trade labor and equipment, and all pertinent details relative to the progress of the Work. Augment the written reports with photographic documentation of the work in progress. Photographs are required when unforeseen conditions, disputed work, or deficiencies in the Work are encountered. Pro-actively monitor the progress of the Work, taking such steps (on behalf of the County) as are authorized under the CC's contract, to ensure that the CC's workforce is sufficient and the work is being diligently prosecuted. Where progress is impeded by actions/inactions of the Design Engineer, or others, bring such matters promptly to the attention of the County for resolution. The CM shall monitor the progress in such a manner as to complete the project within the schedule and budget, on behalf of Nassau County.

Information Management System – The PM has implemented an information management system (Microsoft Sharepoint in conjunction with Oracle Contract Management) to track and update the status of all pertinent project information. The CM shall reimburse the PM for the cost associated with obtaining and maintaining a license for Contract Management and shall attend training sessions provided by the PM. The CM shall upload all project documents upon receipt from the CC, per the templates developed by the PM. The CM shall utilize the system to generate logs and variance reports which shall be provided to the PM. The CM shall develop and maintain paper and electronic project files, including, but not limited to, project correspondence, contract drawings and documents, submittals, payment requisitions, standard forms (such as insurance certificates, bonds, lien waivers, releases, etc.) and reports. Documents and records will be maintained by the CM for a period of six (6) years after completion of services. The CM shall track all drawings, CC submittals, meeting minutes, requests for information, bulletins, changes orders, CC requisitions/payments, correspondence, reports, and all documents, which should be part of the project record. Project records, including the project directory and emergency contact information, will be kept well organized and the information maintained current at all times. The CM shall receive the CC's submittals such as shop drawings, product data, and samples, promptly review them for completeness and responsiveness, log and finally distribute them to the Design Engineer, all distribution shall be electronic, for review and approval; within 48 hours of receipt by CM of CC's submittals. The CM shall return submittals to the CC within 24 hours of receipt from the Design Engineer, and shall update the submittal log accordingly. CM shall collect and compile as-built drawings, operations and maintenance manuals, spare parts and attic stock provided by the CC and is responsible for documenting acceptability and the transfer of these items to Plant Operations, in both paper and electronic formats.



CC Payments: - Receive, review, and recommend for processing by the County, all schedules of values, invoices, and requests for payments prepared by the CC. CM shall correlate CC's payment requests with the progress of the work and take into account any deficiencies in the work for which payment is being requested, in making his recommendation. The CM's recommendation for payment shall constitute a representation to the County, that, to the best of the CM's knowledge, information and belief; the Work has progressed to the point indicated, and the quality of the Work is in accordance with the Contract Documents. All payments shall be based on the cost loaded CPM schedule and CM shall be responsible for certifying such payments. The CM shall provide copies of their recommendations for payment to the PM.

Meetings – Schedule and conduct regular weekly job progress meetings with the CC, the Design Engineer, the County, the Program Manager and others, where necessary to plan and coordinate the Work, discuss progress, and solve problems related the Project. The CM shall also attend weekly meetings with the County, the Program Manager and/or the Design Engineer. Prepare and timely distribute meeting minutes and agenda. Special meetings will be scheduled as the need arises and participation by the CM at these meetings shall be at no additional cost to the County.

Reporting – The CM shall prepare monthly written progress reports and deliver 5 copies of same to the County, and 1 copy to the Program Manager no later than the 10<sup>th</sup> day of the following month. Such reports shall include the following information at a minimum:

- A. Executive Summary
- B. Progress Narrative - supported by photographs and the project schedule updated to show progress
- C. Issues Report - Report on all critical and important issues, which require the attention of the County
- D. Change Orders - log the status of change orders (e.g., potential, proposed, pending, processed)
- E. CC Payment Summary - include a discussion of variances between amounts paid to date and the cash flow forecast
- F. Budget Report
- G. Log of Non-conforming or deficient work
- H. Attachments - attach photographs, logs, reports, etc. which are germane to the Issues Report.

Safety - The CM shall require the CC to submit its safety program and shall serve a central role in dissemination of safety-related information between the CC, the Program Manager and the Nassau County Plant and Construction personnel. The CM shall not have control over or charge of the Work and the CM shall not be responsible for CC's means, methods, techniques, sequences or procedures, and/or for safety precautions and programs in connection with the work of the CC, since these are solely the CCs' responsibility. The CM shall not be responsible for the CC's failure to carry out the Work in accordance with the CC's Safety Programs, and/or applicable safety rules and regulations. Nevertheless, the CM shall promote safety and endeavor to guard against the creation of unsafe conditions by the CC. The CM must review the CC safety program and inform the Department and the Program Manager of its adequacy.

Changes - The CM shall review all Supplementary Bulletins prepared by the Design Engineer prior to their issuance; prepare cost estimates; review CC's proposals; and submit formal written recommendations, including confidential memoranda to the County and the Program Manager, clearly delineating the scope and reason for the changed work. Evaluate the CC's proposed adjustment to contract price and time; and assist the County in negotiating Change Orders. Where changes are, or may be, the result of the Design Engineer's error or omission, the CM shall confidentially inform the County and the Program Manager of such, and shall track all such changes separately on the County's behalf. Keep a log of all Requests for Information, Bulletins, Proposals and Change Orders, which shall be uploaded regularly into the Contract Management Information

System.

Partial Occupancy and Beneficial Use - The CM shall assist the County in determining dates of Partial Occupancy of the Work, or portions thereof, designated by the County; and shall assist in obtaining any necessary temporary occupancy certificates. Review any lists prepared by the Design Engineer of incomplete or unsatisfactory work, prepare schedules for completing and correcting the Work, and monitor the completion/correction. Prior to any declaration of partial occupancy or beneficial work the CM shall coordinate and attend a site review with the Program Manager on behalf of the County.

Field Office - The CM will be provided space at the Bay Park Sewage Treatment Plant for use as temporary offices, during the construction phase. This will either be on the 2<sup>nd</sup> floor of the Administration Building and/or in field trailers located on site. All CM's office equipment and supplies, including, but not limited to computers (with software and high speed internet access), printers, copiers, scanners, facsimile machines, etc. shall be provided, maintained, and subsequently removed by the CM, and the cost of same is included in the CM's Fee. Telephone service and up to 2 lines and telephones will be provided to the CM for exclusive use on this project, by the County.

New York State Revolving Fund Project - The County anticipates funding for this project under the New York State Revolving Fund Program. Accordingly, the CM will be required to comply with Program requirements as well as responsible to assure that the contractor(s) comply with the New York State Environmental Facilities Corporation (NYSEFC) bid packet and guidance documents and forms which are part of the contract documents. The CM will be responsible to administer this program on behalf of the County and provide the NYSEFC with the required compliance information.

## **2.2 Construction Services**

Contract Closeout - Conduct final inspections with Design Engineer, the Program Manager and the County, at the completion of each phase of the project, and prepare detailed punch lists (observed discrepancies, deficiencies and incomplete items of work), as required. It is understood that the project will be completed in phases and that multiple final inspections are needed. Compile project record documents collected during the construction phase and supplement with any information collected following occupancy. Review the as-built drawings provided by the CC and verify that the as-built drawings, to the best of the CM's knowledge, based upon the CM's observations during the progress of the project, document the actual construction of the project. The CM shall then transmit the verified as-built drawings to the Design Engineer for the preparation of record drawings. THE COUNTY RESERVES THE RIGHT TO REQUIRE THE CM TO DIGITIZE CONTRACT CLOSEOUT DOCUMENTS IN A FORMAT NOT YET CHOSEN. COMPENSATION WILL BE BASED UPON THE EXTRA SERVICES SECTION OF THE AGREEMENT. Schedule and record/document the training of County personnel with respect to the operation and maintenance of components and systems.

CC Claims and Disputed Work - The CM shall promptly review the CC's claims for additional compensation and/or extension of time, whether these claims are received during or after construction. Where the Work is disputed, promptly refer the matter(s) under dispute to the Design Engineer and the Program Manager for interpretation. Confer with the Design Engineer and the Program Manager, and advise the County on the quantum and merits of each claim, and/or recommended resolution of each dispute. At the County's request, and at no additional cost to the County, schedule and attend dispute resolution meetings related to each claim/dispute, whether or not such meetings are held during the construction or post-construction phase. With the County's concurrence, prepare written response to CC's claims, incorporating the Design Engineer's determination, where applicable.

Limitation of Services - Nothing contained in this Agreement shall be deemed to require or authorize the CM to perform any act or render any services other than those of a professional Construction Manager, as defined herein. The services, recommendations,

and advice furnished by the CM shall not be deemed to be warranties, or guarantees, or constitute the practice of any profession other than that of a professional Construction Manager. Notwithstanding any language to the contrary, this Agreement shall neither require, nor authorize, the Construction Manager to assume any duty, role, responsibility, or obligation; or perform any task, function, or activity, which is properly that of the Design Engineer.

## EXHIBIT "B"

### PAYMENT SCHEDULE

Payment to the Firm for all services under this Agreement that may be authorized under this Agreement, shall be made as follows:

**A. BASIC SERVICES (Not-to-Exceed Fee)**

*\* Inclusive*

In consideration of all services, ~~exclusive~~ *inclusive* of Extra Services, if any, performed by the Firm (inclusive of sub-consultants, specialty consultants, and all other costs) under this Agreement, the County shall pay the Firm a total amount not to exceed (write the number in words and numerically) one million three hundred thirty thousand seven hundred ninety four (\$1,330,794) dollars. The Firm shall be compensated for such services by an amount equal to two and one quarter (2.25) times the actual salaries or wages paid to the technical personnel engaged in this project, exclusive of payroll taxes, insurance, and any and all fringe benefits

*870 2/16/16*

**B. REIMBURSABLE EXPENSES**

1. Testing and Controlled Inspection Services – the Firm shall be reimbursed for the actual cost incurred in connection with testing and controlled inspection services. Invoices must be substantiated by reports, bills and payment records.
2. Other Reimbursable Expenses - the Firm shall be reimbursed for authorized reimbursable expenses. These must be approved by the Department, prior to the cost being incurred, in accordance with Section 2 (d) of the Agreement.

The Firm shall prepare and attach to this Agreement a Maximum Hourly Wage Rate Schedule listing the job classifications and the maximum hourly wage rate for each classification. The salaries of all employees rendering services under this Agreement must be within the limits of the approved Maximum Hourly Wage Rate Schedule (Attached). The Maximum Hourly Wage Rate Schedule will be adjusted annually in accordance with any wage increases granted to County employees in the Civil Service Employees Association. The Firm may grant an employee a salary increase within a classification or a change of classification upon written notification to the Department one month prior to the effective date of such increase or change and with written approval of the Department. Premium pay for overtime work, over and above the straight hourly rate, performed for any services rendered under this Agreement shall not be subject to any multiplier. In computing the cost to the County for overtime work performed, the overtime period shall be paid at the agreed multiplier times the straight hourly rate plus the actual premium cost incurred. Notwithstanding the foregoing, the maximum billable rate, after application of the multiplier for any services provided under the terms of this Agreement shall not exceed one hundred and seventy five dollars (\$175.00)

(Insert staffing schedule with rates, hourly rates and multipliers here)

Firm	Employee Name	Title	H Rate/hr	Multiplier	Total Rate	Hours	Proposed Cost
Gannett Fleming	Doreen Bartoldus, PE, CCM	Construction Manager	1 \$ 105.00	1.67	\$ 175.00	90	\$ 15,750.0
Gannett Fleming	Lazarus Francino, PE	Resident Engineer	1 \$ 66.00	2.25	\$ 148.50	4080	\$ 605,880.0
Gannett Fleming	Eric Wyluda	Office Engineer	1 \$ 31.00	1.94	\$ 60.14	800	\$ 48,112.0
Gannett Fleming	Stanley Michalowski	Project Controls/Scheduler	1 \$ 69.01	2.25	\$ 155.27	124	\$ 19,253.7
Gannett Fleming	Brian Walker	Special Inspector (Concrete)	\$ 51.00	2.25	\$ 114.75	220	\$ 25,245.0
Gannett Fleming	Eric Wyluda	Civil Inspector	\$ 31.00	2.25	\$ 69.75	1488	\$ 103,788.0
Tecnoho	Talait Warsi	Mechanical Inspector	1 \$ 52.50	2.17	\$ 113.93	1763	\$ 200,849.7
SSS (WBE)	Leslie Birnbaum	Health and Safety	1 \$ 80.00	1.81	\$ 144.80	16	\$ 2,316.8
SSS (WBE)	UBIRAJARA B. FRANCO	Health and Safety	1 \$ 40.50	1.81	\$ 73.31	34	\$ 2,492.3



GANNETT FLEMING ENGINEERS, P.C.  
100 Crossways Park West  
Suite 300  
Woodbury, NY 11797

Office: (516) 364-4140  
Fax: (516) 921-1565  
Internet: [www.gannettfleming.com](http://www.gannettfleming.com)

### Maximum Hourly Wage Rates

Maximum hourly wage rates by job classification are:

<i>Job Classification</i>	<i>Max Wage Rate/hr</i>
Construction Manager	\$ 112.00
Resident Engineer	\$ 72.00
Office Engineer	\$ 49.00
Project Controls/Scheduler	\$ 72.00
Civil Inspector	\$ 55.00
Mechanical/Electrical Inspector	\$ 62.00
Special Inspector (Concrete)	\$ 55.00
Health and Safety CSP	\$ 82.00
Health and Safety Field	\$ 45.00

Sincerely,  
GANNETT FLEMING ENGINEERS, P.C.

A handwritten signature in black ink, appearing to read 'Fotios Paramichael', written over a horizontal line.

FOTIOS PARAMICHAEL, P.E.  
President

## Appendix "EE"

### Equal Employment Opportunities for Minorities and Women

The provisions of this Appendix EE are hereby made a part of the document to which it is attached.

The Contractor shall comply with all federal, State and local statutory and constitutional anti-discrimination provisions. In addition, Local Law No. 14-2002, entitled "Participation by Minority Group Members and Women in Nassau County Contracts," governs all County Contracts as defined herein and solicitations for bids or proposals for County Contracts. In accordance with Local Law 14-2002:

(a) The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status in recruitment, employment, job assignments, promotions, upgradings, demotions, transfers, layoffs, terminations, and rates of pay or other forms of compensation. The Contractor will undertake or continue existing programs related to recruitment, employment, job assignments, promotions, upgradings, transfers, and rates of pay or other forms of compensation to ensure that minority group members and women are afforded equal employment opportunities without discrimination.

(b) At the request of the County 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, union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status and that such employment agency, labor union, or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

(c) The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the County 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.

(d) The Contractor shall make best efforts to solicit active participation by certified minority or women-owned business enterprises ("Certified M/WBEs") as defined in Section 101 of Local Law No. 14-2002, for the purpose of granting of Subcontracts.

(e) The Contractor shall, in its advertisements and solicitations for Subcontractors, indicate its interest in receiving bids from Certified M/WBEs and the requirement that Subcontractors must be equal opportunity employers.

(f) Contractors must notify and receive approval from the respective Department Head prior to issuing any Subcontracts and, at the time of requesting such authorization, must submit a signed Best Efforts Checklist.

(g) Contractors for projects under the supervision of the County's Department of Public Works shall also submit a utilization plan listing all proposed Subcontractors so that, to the greatest extent feasible, all Subcontractors will be approved prior to commencement of work. Any additions or changes to the list of subcontractors under the utilization plan shall be approved by the Commissioner of the Department of Public Works when made. A copy of the utilization plan any additions or changes thereto shall be submitted by the Contractor to the Office of Minority Affairs simultaneously with the submission to the Department of Public Works.

(h) At any time after Subcontractor approval has been requested and prior to being granted, the contracting agency may require the Contractor to submit Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises. In addition, the contracting agency may require the Contractor to submit such documentation at any time after Subcontractor approval when the contracting agency has reasonable cause to believe that the existing Best Efforts Checklist may be inaccurate. Within ten working days (10) of any such request by the contracting agency, the Contractor must submit Documentation.

(i) In the case where a request is made by the contracting agency or a Deputy County Executive acting on behalf of the contracting agency, the Contractor must, within two (2) working days of such request, submit evidence to demonstrate that it employed Best Efforts to obtain Certified M/WBE participation through proper documentation.

(j) Award of a County Contract alone shall not be deemed or interpreted as approval of all Contractor's Subcontracts and Contractor's fulfillment of Best Efforts to obtain participation by Certified M/WBEs.

(k) A Contractor shall maintain Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises for a period of six (6) years. Failure to maintain such records shall be deemed failure to make Best Efforts to comply with this Appendix EE, evidence of false certification as M/WBE compliant or considered breach of the County Contract.

(l) The Contractor shall be bound by the provisions of Section 109 of Local Law No. 14-2002 providing for enforcement of violations as follows:

- a. Upon receipt by the Executive Director of a complaint from a contracting agency that a County Contractor has failed to comply with the provisions of Local Law No. 14-2002, this Appendix EE or any other contractual provisions included in furtherance of Local Law No. 14-2002, the Executive Director will try to resolve the matter.
- b. If efforts to resolve such matter to the satisfaction of all parties are unsuccessful, the Executive Director shall refer the matter, within thirty days (30) of receipt of the complaint, to the American Arbitration Association for proceeding thereon.
- c. Upon conclusion of the arbitration proceedings, the arbitrator shall submit to the Executive Director his recommendations regarding the imposition of sanctions, fines or penalties. The Executive Director shall either (i) adopt the recommendation of the arbitrator (ii) determine that no sanctions, fines or penalties should be imposed or (iii) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or impose any new sanction, or increase the amount of any recommended fine or penalty. The Executive Director, within ten days (10) of receipt of the arbitrators award and recommendations, shall file a determination of such matter and shall cause a copy of such determination to be served upon the respondent by personal service or by certified mail return receipt requested. The award of the arbitrator, and the fines and penalties imposed by the Executive Director, shall be final determinations and may only be vacated or modified as provided in the civil practice law and rules ("CPLR").

(m) The contractor shall provide contracting agency with information regarding all subcontracts awarded under any County Contract, including the amount of compensation paid to each Subcontractor and shall complete all forms provided by the Executive Director or the Department Head relating to subcontractor utilization and efforts to obtain M/WBE participation.

Failure to comply with provisions (a) through (m) above, as ultimately determined by the Executive Director, shall be a material breach of the contract constituting grounds for immediate termination. Once a final determination of failure to comply has been reached by the Executive Director, the determination of whether to terminate a contract shall rest with the Deputy County Executive with oversight responsibility for the contracting agency.

Provisions (a), (b) and (c) shall not be binding upon Contractors or Subcontractors in the performance of work or the provision of services or any other activity that are unrelated, separate, or distinct from the County Contract as expressed by its terms.

The requirements of the provisions (a), (b) and (c) shall not apply to any employment or application for employment outside of this County or solicitations or advertisements therefor or any existing programs of affirmative action regarding employment outside of this County and the effect of contract provisions required by these provisions (a), (b) and (c) shall be so limited.

The Contractor shall include provisions (a), (b) and (c) in every Subcontract in such a manner that these provisions shall be binding upon each Subcontractor as to work in connection with the County Contract.

As used in this Appendix EE the term "Best Efforts Checklist" shall mean a list signed by the Contractor, listing the procedures it has undertaken to procure Subcontractors in accordance with this Appendix EE.

As used in this Appendix EE the term "County Contract" shall mean (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars (\$25,000), whereby a County 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 County; or (ii) a written agreement in excess of one hundred thousand dollars (\$100,000), whereby a County 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. However, the term "County Contract" does not include agreements or orders for the following services: banking services, insurance policies or contracts, or contracts with a County contracting agency for the sale of bonds, notes or other securities.

As used in this Appendix EE the term "County Contractor" means an individual, business enterprise, including sole proprietorship, partnership, corporation, not-for-profit corporation, or any other person or entity other than the County, whether a contractor, licensor, licensee or any other party, that is (i) a party to a County Contract, (ii) a bidder in connection with the award of a County Contract, or (iii) a proposed party to a County Contract, but shall not include any Subcontractor.

As used in this Appendix EE the term "County Contractor" shall mean a person or firm who will manage and be responsible for an entire contracted project.

As used in this Appendix EE "Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises" shall include, but is not limited to the following:

- a. Proof of having advertised for bids, where appropriate, in minority publications, trade newspapers/notices and magazines, trade and union publications, and publications of general circulation in Nassau County and surrounding areas or having verbally solicited M/WBEs whom the County Contractor reasonably believed might have the qualifications to do the work. A copy of the advertisement, if used, shall be included to demonstrate that it contained language indicating that the County Contractor welcomed bids and quotes from M/WBE Subcontractors. In addition, proof of the date(s) any such advertisements appeared must be included in the Best Effort Documentation. If verbal solicitation is used, a County Contractor's affidavit with a notary's signature and stamp shall be required as part of the documentation.
- b. Proof of having provided reasonable time for M/WBE Subcontractors to respond to bid opportunities according to industry norms and standards. A chart outlining the schedule/time frame used to obtain bids from M/WBEs is suggested to be included with the Best Effort Documentation
- c. Proof or affidavit of follow-up of telephone calls with potential M/WBE subcontractors encouraging their participation. Telephone logs indicating such action can be included with the Best Effort Documentation
- d. Proof or affidavit that M/WBE Subcontractors were allowed to review bid specifications, blue prints and all other bid/RFP related items at no charge to the M/WBEs, other than reasonable documentation costs incurred by the County Contractor that are passed onto the M/WBE.
- e. Proof or affidavit that sufficient time prior to making award was allowed for M/WBEs to participate effectively, to the extent practicable given the timeframe of the County Contract.



- f. Proof or affidavit that negotiations were held in good faith with interested M/WBEs, and that M/WBEs were not rejected as unqualified or unacceptable without sound business reasons based on (1) a thorough investigation of M/WBE qualifications and capabilities reviewed against industry custom and standards and (2) cost of performance. The basis for rejecting any M/WBE deemed unqualified by the County Contractor shall be included in the Best Effort Documentation
- g. If an M/WBE is rejected based on cost, the County Contractor must submit a list of all sub-bidders for each item of work solicited and their bid prices for the work.
- h. The conditions of performance expected of Subcontractors by the County Contractor must also be included with the Best Effort Documentation
- i. County Contractors may include any other type of documentation they feel necessary to further demonstrate their Best Efforts regarding their bid documents.

As used in this Appendix EE the term "Executive Director" shall mean the Executive Director of the Nassau County Office of Minority Affairs; provided, however, that Executive Director shall include a designee of the Executive Director except in the case of final determinations issued pursuant to Section (a) through (l) of these rules.

As used in this Appendix EE the term "Subcontract" shall mean an agreement consisting of part or parts of the contracted work of the County Contractor.

As used in this Appendix EE, the term "Subcontractor" shall mean a person or firm who performs part or parts of the contracted work of a prime contractor providing services, including construction services, to the County pursuant to a county contract. Subcontractor shall include a person or firm that provides labor, professional or other services, materials or supplies to a prime contractor that are necessary for the prime contractor to fulfill its obligations to provide services to the County pursuant to a county contract. Subcontractor shall not include a supplier of materials to a contractor who has contracted to provide goods but no services to the County, nor a supplier of incidental materials to a contractor, such as office supplies, tools and other items of nominal cost that are utilized in the performance of a service contract.

Provisions requiring contractors to retain or submit documentation of best efforts to utilize certified subcontractors and requiring Department head approval prior to subcontracting shall not apply to inter-governmental agreements. In addition, the tracking of expenditures of County dollars by not-for-profit corporations, other municipalities, States, or the federal government is not required.

APPENDIX "L"

Certificate of Compliance

In compliance with Local Law 1-2006, as amended (the "Law"), the Contractor hereby certifies the following:

1. The chief executive officer of the Contractor is:

James R. Laurita, PE (Name)

100 Crossways Park West, Suite 300, Woodbury, NY 11797 (Address)

(516) 364-4140 (Telephone Number)

2. The Contractor agrees to either (1) comply with the requirements of the Nassau County Living Wage Law or (2) as applicable, obtain a waiver of the requirements of the Law pursuant to section 9 of the Law. In the event that the contractor does not comply with the requirements of the Law or obtain a waiver of the requirements of the Law, and such contractor establishes to the satisfaction of the Department that at the time of execution of this agreement, it had a reasonable certainty that it would receive such waiver based on the Law and Rules pertaining to waivers, the County will agree to terminate the contract without imposing costs or seeking damages against the Contractor
3. In the past five years, Contractor \_\_\_\_\_ has X has not been found by a court or a government agency to have violated federal, state, or local laws regulating payment of wages or benefits, labor relations, or occupational safety and health. If a violation has been assessed against the Contractor, describe below:

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4. In the past five years, an administrative proceeding, investigation, or government body-initiated judicial action \_\_\_\_\_ has X has not been commenced against or relating to the Contractor in connection with federal, state, or local laws regulating payment of wages or benefits, labor relations, or occupational safety and health. If such a proceeding, action, or investigation has been commenced, describe below:

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5. Contractor agrees to permit access to work sites and relevant payroll records by authorized County representatives for the purpose of monitoring compliance with the Living Wage Law and investigating employee complaints of noncompliance.

I hereby certify that I have read the foregoing statement and, to the best of my knowledge and belief, it is true, correct and complete. Any statement or representation made herein shall be accurate and true as of the date stated below.

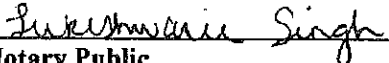
August 28, 2015  
Dated \_\_\_\_\_

  
\_\_\_\_\_  
Signature of Chief Executive Officer

James R. Laurita, PE  
\_\_\_\_\_  
Name of Chief Executive Officer

Sworn to before me this

28 day of August, 20 15.

  
\_\_\_\_\_  
Notary Public

LUKESHWARIE SINGH  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires October 21, 2018  
I.D. # 2379185

**AGREEMENT TO ABIDE BY EQUAL EMPLOYMENT OPPORTUNITY  
POLICY STATEMENT REQUIREMENTS  
NEW YORK STATE REVOLVING FUND (SRF)**

I, James R. Laurita, PE, am the authorized representative of Gannett Fleming Engineers, P.C.  
Name of Representative Name of Contractor/Service Provider

I hereby certify that Gannett Fleming Engineers, P.C. will abide by the equal employment  
Name of Contractor/Service Provider  
opportunity (EEO) policy statement provisions outlined below.

- (i) A statement that the contractor will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on contracts relating to the Project.
- (ii) An agreement that all of contractor's solicitations or advertisements for employees will state that, in the performance of the contract relating to this Project, all qualified applicants will be afforded equal employment opportunities without discrimination on the basis of race, creed, color, national origin, sex, age, disability or marital status.
- (iii) An agreement to 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.
- (iv) An agreement to comply with the provisions of the Human Rights Law (Article 15 of the Executive Law), including those relating to non-discrimination on the basis of prior criminal conviction and prior arrest, and with all other State and federal statutory constitutional non-discrimination provisions.

Blank EEO Policy Statements are available at [www.efc.ny.gov/mwbe](http://www.efc.ny.gov/mwbe), if needed.

If contractor fails to submit to Recipient an EEO policy statement consistent with the provisions set forth above in clauses (i), (ii), (iii) and (iv) and within the timeframe required thereof, Recipient may declare this contract to be null and void.

X James R. Laurita  
James R. Laurita, PE, Director/Chairman  
Contractor/Service Provider Representative

Once completed, please provide to the Prime Contractor and/or the community MBO

**AGREEMENT TO ABIDE BY EQUAL EMPLOYMENT OPPORTUNITY  
POLICY STATEMENT REQUIREMENTS  
NEW YORK STATE REVOLVING FUND (SRF)**

I, Leslie Birnbaum, am the authorized representative of Site Safety Solutions LLC.  
Name of Representative Name of Contractor/Service Provider

I hereby certify that Site Safety Solutions will abide by the equal employment  
Name of Contractor/Service Provider  
opportunity (EEO) policy statement provisions outlined below.

- (i) A statement that the contractor will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on contracts relating to the Project.
- (ii) An agreement that all of contractor's solicitations or advertisements for employees will state that, in the performance of the contract relating to this Project, all qualified applicants will be afforded equal employment opportunities without discrimination on the basis of race, creed, color, national origin, sex, age, disability or marital status.
- (iii) An agreement to 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.
- (iv) An agreement to comply with the provisions of the Human Rights Law (Article 15 of the Executive Law), including those relating to non-discrimination on the basis of prior criminal conviction and prior arrest, and with all other State and federal statutory constitutional non-discrimination provisions.

Blank EEO Policy Statements are available at [www.efc.ny.gov/mwbe](http://www.efc.ny.gov/mwbe), if needed.

If contractor fails to submit to Recipient an EEO policy statement consistent with the provisions set forth above in clauses (i), (ii), (iii) and (iv) and within the timeframe required thereof, Recipient may declare this contract to be null and void.

X   
\_\_\_\_\_  
Contractor/Service Provider Representative

Once completed, please provide to the Prime Contractor and/or the community MBO

**AGREEMENT TO ABIDE BY EQUAL EMPLOYMENT OPPORTUNITY  
POLICY STATEMENT REQUIREMENTS  
NEW YORK STATE REVOLVING FUND (SRF)**

I, Khalid Mallick, PE, am the authorized representative of Techno Consult, Inc.

Name of Representative

Name of Contractor/Service Provider

I hereby certify that Techno Consult, Inc. will abide by the equal employment

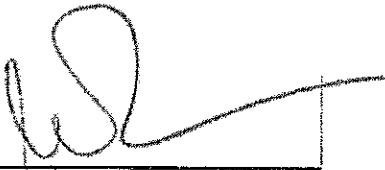
Name of Contractor/Service Provider

opportunity (EEO) policy statement provisions outlined below.

- (i) A statement that the contractor will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on contracts relating to the Project.
- (ii) An agreement that all of contractor's solicitations or advertisements for employees will state that, in the performance of the contract relating to this Project, all qualified applicants will be afforded equal employment opportunities without discrimination on the basis of race, creed, color, national origin, sex, age, disability or marital status.
- (iii) An agreement to 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.
- (iv) An agreement to comply with the provisions of the Human Rights Law (Article 15 of the Executive Law), including those relating to non-discrimination on the basis of prior criminal conviction and prior arrest, and with all other State and federal statutory constitutional non-discrimination provisions.

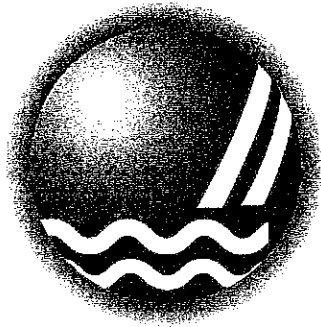
Blank EEO Policy Statements are available at [www.efc.ny.gov/mwbe](http://www.efc.ny.gov/mwbe), if needed.

If contractor fails to submit to Recipient an EEO policy statement consistent with the provisions set forth above in clauses (i), (ii), (iii) and (iv) and within the timeframe required thereof, Recipient may declare this contract to be null and void.

X 

Contractor/Service Provider Representative

Once completed, please provide to the Prime Contractor and/or the community MBO



NY State Revolving Fund  
**MWBE / EEO / AIS**

Bid Packet for

# Non-Construction Contracts

Effective October 1, 2014

New York State Environmental Facilities Corporation  
625 Broadway, Albany, NY 12207-2997  
(800) 882 9721  
P: (518) 402-7396 F: (518) 402-7456  
[www.efc.ny.gov](http://www.efc.ny.gov)

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## BID PACKET FOR NON-CONSTRUCTION CONTRACTS

### NEW YORK CLEAN WATER and DRINKING WATER STATE REVOLVING FUNDS

Administered by the New York State Environmental Facilities Corporation (EFC)

"Non-Construction Contracts" means any written agreement, and amendment(s) thereto, where the recipient is committed to expend or does expend funds in return for labor, services (including legal, financial, technical, and other professional services), travel, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency.

### Contents of Bid Packet

#### Part 1: REQUIRED CONTRACT LANGUAGE ..... 4

*The required contract language to be inserted into all non-construction contracts to satisfy Equal Employment Opportunity (EEO), Disadvantaged Business Enterprise (DBE), Minority & Women Owned Business Enterprise (MWBE), American Iron and Steel (AIS) and some other Clean/Drinking Water State Revolving Fund (SRF) Program requirements*

#### Part 2: GUIDANCE MATERIALS..... 12

*A description of the program requirements as they relate to non-construction contracts funded in whole or in part by the New York State Revolving Funds – all contracts and subcontracts.*

*Checklists summarizing important required forms or steps to be completed by the Contractor are included at the end of this section.*

#### Part 3: REQUIRED FORMS..... 32

*Copies of required forms are included at the end of this packet for the Service Provider's use. All forms can be found on the EFC website ([www.efc.gov](http://www.efc.gov)).*

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# PART 1:

## REQUIRED CONTRACT LANGUAGE

This Part 1 is to be inserted in its entirety for ALL non-construction contracts and subcontracts funded in whole or in part with SRF funds.

Check EFC's website ([www.efc.ny.gov](http://www.efc.ny.gov)) for updates.

**\*\*Please note that the contractual language in its entirety is not necessarily applicable to all projects. Information is provided in parentheses below each program section within to identify circumstances when certain language is not applicable.\*\***

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## **REQUIRED TERMS FOR PROJECT CONTRACTS AND SUBCONTRACTS**

***\*\* (Applies to all contracts) \*\****

In accordance with the terms and conditions set forth in Section 5.1 of the Project Finance Agreement, Recipient agrees that the following language will be included in all contracts and subcontracts regarding the Project including but not limited to those relating to construction, engineering, architectural, legal and fiscal services, as required by federal and state laws, regulations, and executive orders applicable to this Project:

### **Defined Terms:**

The term "Bid Packets" means the New York State Revolving Fund (SRF) Bid Packet for Construction Contracts and Bid Packet for Non-Construction Contracts and Service Providers, available at [www.efc.ny.gov/](http://www.efc.ny.gov/).

The term "Service Providers" means those who provide the following: legal, engineering, financial advisory, technical, or other professional services; supplies, commodities, equipment, materials, and travel.

The term "subcontractor", as used in this contract or subcontract, means, and applies to, any individual or business enterprise that has an agreement, purchase order, or any other contractual arrangement with a Service Provider.

The term "EEO policy statement" means a statement of the Service Provider and subcontractor setting forth at least the following:

- (i) A statement that the Service Provider will provide for and promote equal employment opportunity free of discrimination and harassment against any person on the basis of race, color, national origin, age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law, 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 and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on contracts relating to the Project.
- (ii) An agreement that all of Service Provider's solicitations or advertisements for employees will state that, in the performance of the contract relating to this Project, all qualified applicants will be provided with equal employment opportunity free of discrimination and harassment against any person on the basis of race, color, national origin, age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law.
- (iii) An agreement to 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 or harass on the basis of race, color, national origin, age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law and that such union or representative will affirmatively cooperate in the implementation of the Service Provider's obligations herein.
- (iv) An agreement to comply with the provisions of the Human Rights Law (Article 15 of the Executive Law), including those relating to non-discrimination on the basis of prior criminal conviction and prior arrest, and with all other State and federal statutory constitutional non-discrimination provisions.

The term "EFC" means the New York State Environmental Facilities Corporation.

The term "EPA" means the United States Environmental Protection Agency.

The term "ESD" means the Empire State Development Corporation - Division of Minority and Women's Business Development.

The term "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 hereunder are being paid in whole or in part.

The term "State" means the State of New York.

The term "Treatment Works Project" means a Clean Water Act (CWA) Section 212 project. Examples include new, expanded or rehabilitated wastewater plants; sludge treatment and disposal facilities including biosolids reuse; collector, trunk and interceptor sewers; sewer rehabilitation and infiltration/inflow correction; municipally-owned sewers and treatment capacity for industrial wastewater; combined sewer overflow (CSO) abatement; stormwater resiliency and pollution abatement; energy initiatives, including energy efficiency and on-site power generator for treatment plants and sewer systems; water treatment plant filter backwash and sludge treatment; water efficiency projects, including conservation and reuse of water; septage hauling and marine vessel pump out/treatment facilities; publically-owned water conservation/reuse devices or systems; and security measures for wastewater treatment plants and sewer systems.

The terms "Nonpoint Source Projects" and "Green Infrastructure Project" mean a CWA Section 319 Project. Examples include green infrastructure projects that manage stormwater, such as constructed wetlands, biofilters, porous pavement and green roofs; waterbody restoration including stream bank stabilization and drainage erosion and sediment control; restoration of riparian vegetation, wetlands and other water bodies; land acquisition or conservation easements for water quality protection; stormwater management facilities, such as street sweepers and catch basin vacuum vehicles, sediment traps and basins; and capping and closure of municipal solid waste landfills, landfill reclamation, landfill leachate collection, storage and treatment of landfill gas collection and control systems.

The term "Estuary Management Program Project" means a CWA Section 320 Project. Examples include projects necessary to implement the EPA-approved Estuary Conservation and Management Plans for the New York-New Jersey Harbor; Peconic Bay; and Long Island Sound Estuaries.

## **EEO AND MWBE LANGUAGE, GOALS AND OTHER PROGRAM REQUIREMENTS**

*\*\* (Applies to all contracts) \*\**

### **Interpretation:**

This contract is subject to Article 15-A of the Executive Law (Article 15-A) and 5 NYCRR 140-145 (the Regulations) and shall be considered a State Contract as defined therein. If any of the terms herein conflict with Article 15-A or the Regulations, such law and regulations shall supersede these requirements.

### **Representations and Acknowledgements of Service Provider:**

The Service Provider acknowledges that funds for the payment of amounts due under this contract are being provided in whole or in part subject to the terms and conditions of a grant agreement or a project finance agreement with EFC.

The Service Provider represents that it has submitted an EEO policy statement, an EEO Workforce Staffing Plan for Service Provider (Non-construction) Contracts, and an MWBE Utilization Plan (prime Service Providers only), **prior to the execution of this contract.**

Suspension/Debarment - The Service Provider is not a debarred or suspended party under 2 CFR Part 180, 2 CFR Part 1532 and 40 CFR Part 32. Further, neither the Service Provider nor any of its subcontractors have contracted with, or will contract with, any debarred or suspended party under the foregoing regulations or with any party that has been determined to be ineligible to bid under Section 316 of the Executive Law.

## **Equal Employment Opportunity (EEO), Affirmative Action, MWBE and Other Covenants:**

Service Provider and subcontractor shall comply with all federal and state laws, regulations, and executive orders applicable to this Project, and shall provide such documentation, including periodic reports, as may be requested from time to time and as set forth in guidance documentation available at [www.efc.ny.gov/](http://www.efc.ny.gov/), including but not limited to the Bid Packets.

With respect to this contract, the Service Provider and subcontractor shall undertake or continue existing programs of affirmative action and equal employment opportunity to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, color, national origin (including limited English proficiency), age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

## **MWBE PROGRAM**

**\*\* (Applies to all: (1) Service Provider Contracts greater than \$25,000  
(2) Contracts that are initially under this thresholds but subsequent change orders or contract amendments increased the contract value above \$25,000  
(3) Change orders greater than \$25,000)\*\***

**MWBE Goals** - The Service Provider agrees to pursue MWBE goals in effect at the time of execution of this contract. The MWBE goals shall be applied to the total amount being funded pursuant to the grant agreement or project finance agreement with EFC.

<b>10/1/2012 – Present</b>	<b>MWBE Combined Goal*</b>
All counties	20%

\*May be any combination of MBE and/or WBE participation

Service Provider shall solicit participation of MWBE firms (including subcontractors, consultants and service providers) for SRF-funded projects in accordance with the aforementioned goals. The Service Provider must submit sufficient documentation to demonstrate good faith efforts to provide opportunities for MWBE participation for work related to the SRF-funded project in the event respective goals are not achieved. Guidance pertaining to documentation of good faith efforts is set forth in the Bid Packet.

The Service Provider agrees that for purposes of providing meaningful participation by MWBEs on the contract and achieving the goals, Service Provider will reference the directory of New York State Certified MWBEs found at the following internet address: <http://www.ny.newnycontracts.com/>.

Subcontractors who in turn subcontract work shall also comply with MWBE requirements for that contract.

**MWBE Utilization Plan** (MWBE Utilization Plan requirements apply to Service Provider. MWBE Utilization Plans are submitted to the SRF Recipient's minority business officer (MBO) prior to execution of a contract.) – Each Service Provider shall prepare an MWBE Utilization Plan, and any subsequent revisions or amendments thereto, that provides information describing MBEs and WBEs to be utilized at various times during the performance of this contract. The MWBE Utilization Plan shall identify the Service Provider's proposed MBE and WBE utilization for this contract and the MWBE participation goals established for this contract by EFC. The MBEs and WBEs identified in the MWBE Utilization Plan must be certified by, or have applied, for certification from ESD.

In the event that the Service Provider's approved MWBE Utilization Plan does not propose achievement of the MWBE participation goals for this contract, the Service Provider shall complete a waiver request as hereinafter referenced.

**Submission** – Within 30 days of execution of this contract, the Service Provider shall submit to the Recipient copies of all signed subcontracts, agreements, and/or purchase orders referred to in the MWBE Utilization Plan.

**Compliance** – The Service Provider agrees to adhere to its approved MWBE Utilization Plan for the participation of MWBEs on this contract pursuant to their respective MWBE goals.

**Waivers** – If the Service Provider's application of good faith efforts does not result in the utilization of MBE and/or WBE firms to achieve the aforementioned goals then, prior to execution of a contract, the Service Provider shall complete the waiver request portion of the MWBE Utilization Plan and submit it to the Recipient. The Service Provider is entitled to receive a written notice of acceptance or denial within 20 days of receipt. Upon receipt of a notice of deficiency from the Recipient, the Service Provider shall respond with a written remedy to such notice within 7 days. Such response may include a request for a total or partial waiver of the aforementioned goals.

The Service Provider shall comply with the requirements set forth in the Bid Packets regarding waivers.

**Required Reports – MWBE Monthly Report** – The Service Provider agrees to submit a report to the Recipient by the 3<sup>rd</sup> business day following the end of each month over the term of this contract documenting the payment made and the progress towards achievement of the MWBE goals of this contract.

## **EEO PROGRAM**

*\*\* (Applies to all Service Provider Contracts and Subcontracts) \*\**

### **EEO Workforce Staffing Plan**

All Service Providers and their subcontractors shall submit an acceptable EEO Workforce Staffing Plan setting forth the anticipated work force to be utilized on such contract or, where required, information on the Service Provider's total work force, including apprentices, broken down by specific ethnic background, gender and Federal occupational categories or other appropriate categories specified by the Recipient. The EEO Workforce Staffing Plan is submitted to the Recipient prior to execution of a contract.

### **Required Reports - EEO Workforce Utilization Reports**

During the term of this contract, the Service Provider and subcontractor shall update and provide notice to the Recipient of any changes to the previously submitted Staffing Plan in the form of an EEO Workforce Utilization Report. The Service Provider shall submit this information on a quarterly basis during the term of this contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The EEO Workforce Utilization Report must be submitted to report this information. In the event a Service Provider and subcontractor's workforce does not change within the Quarterly period, the Service Provider shall notify the Recipient in writing.

## **DISADVANTAGED BUSINESS ENTERPRISES**

*\*\* (Applies to all contracts) \*\**

The Service Provider and subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The Service Provider 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 Service Provider 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. Service Providers and subcontractors shall comply with the requirements set forth in the Bid Packets regarding Disadvantaged Business Enterprises.

## **REMEDIES**

***\*\* (Applies to all contracts) \*\****

Upon a determination by the Recipient of the Service Provider's non-responsiveness, non-responsibility or breach as a result of a failure to comply with the requirements of Article 15-A and the Regulations, the Recipient may withhold funds under this contract or take such other actions, impose liquidated damages or commence enforcement proceedings as set forth herein or as otherwise allowed by law or in equity.

If the Service Provider or subcontractor fails to submit to Recipient an EEO policy statement consistent with the provisions set forth in clauses (i), (ii), (iii) and (iv) of the definition thereof and within the timeframe required therefor, Recipient may declare this contract to be null and void.

The Service Provider and subcontractor agree that a failure to submit and/or adhere to its EEO policy statement, EEO Workforce Staffing Plan for Service Provider (Non-construction) Contracts, and an MWBE Utilization Plan, and any other required periodic reports, shall constitute a material breach of the terms of this contract, entitling Recipient to any remedy provided herein, including but not limited to, a finding of Service Provider non-responsiveness.

**Liquidated or Other Damages** - If it has been determined by the Recipient or NYSEFC that the Service Provider is not in compliance with the requirements herein or refuses to comply with such requirements, or if the Service Provider is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Service Provider shall be obligated to pay to Recipient liquidated damages or other appropriate damages as determined by the Recipient or EFC, in accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13

Liquidated damages shall be calculated as an amount not to exceed the difference between:

1. All sums identified for payment to MWBEs had the Service Provider achieved the contractual MWBE goals; and
2. All sums actually paid to MWBEs for work performed or materials supplied under this contract.

In the event a determination has been made by the Recipient or EFC which requires the payment of liquidated damages and such identified sums have not been withheld, the Service Provider shall pay such liquidated damages to the Recipient within sixty (60) days after they are assessed unless prior to the expiration of such sixtieth day, the Service Provider has filed a complaint with ESD pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if the Director of ESD renders a decision in favor of the Recipient.

## **RESTRICTIONS ON LOBBYING**

***\*\* (Applies to all contracts greater than \$100,000) \*\****

The Service Provider and subcontractor executing a contract in excess of \$100,000 agree to provide to the Recipient an executed Certification For Contracts, Grants, Loans, and Cooperative Agreements 40 CFR 34, in the form attached hereto, consistent with the requirements of 40 CFR Part 34.

## **AMERICAN IRON AND STEEL (AIS) REQUIREMENT**

***\*\* (Applies only to Equipment and Material Supplier contracts) \*\****

The Service Provider acknowledges 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 ("Purchaser") that the Service Provider 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 Service Provider pursuant to this Agreement.

The Service Provider hereby represents and warrants that:

- (a) the Service Provider 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 used 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 Service Provider 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 Service Provider shall permit the Recipient to recover as damages against the Service Provider 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 Service Provider has no direct contractual privity with the EFC, as a lender to the Recipient for the funding of this project, the Recipient and the Service Provider 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.

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## PART 2:

# GUIDANCE MATERIALS

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## INTRODUCTION

A description of requirements as they relate to Non-Construction Contracts funded in whole or in part by the New York State Revolving Funds:

### **Applicability:**

This guidance applies to Service Provider (Non-Construction) contracts are written agreements where the SRF recipient (Recipient) commits to expend funds for services (including legal, engineering, financial advisory or other professional services, and labor); supplies; commodities; equipment; materials; and travel, or any combination thereof.

### **Purpose of Documents:**

This guidance is designed to complement the required contract language as set forth in Part 1 – Required Contract Language, by providing additional information intended to assist SRF Recipients and bidders in complying with EEO, MWBE, and other requirements of the SRF programs, including:

- New York State Executive Law, Article 15-A and New York Code of Rules and Regulations, Title 5 (5 NYCRR) Parts 140-145 (Regulations of the Commissioner of Economic Development)
- 40 Code of Federal Regulations (CFR) Part 33 – “Participation by Disadvantaged Business Enterprises in US EPA Programs”
- Restrictions on Lobbying

Service Providers are required to engage in procurement practices that will provide opportunities for meaningful participation of minority and women-owned business enterprises (MWBE) in providing labor, travel, equipment, materials, supplies, services (including legal, financial, engineering or other professional services), or any combination of the above, and practices to encourage the employment of minorities and women in the workforce.

Failure to report on EEO participation or to meet all the requirements of MWBE & DBE regulations in a timely manner may result in withholding of disbursements of SRF funds or other remedies as cited in the SRF financing agreement. This may affect the Service Provider's payments. If this is a project with a not-for-profit entity, please contact EFC for appropriate guidance.

Reference the EFC website to ensure the most recent forms and language. (<http://www.efc.ny.gov/>)

The New York State Environmental Facilities Corporation (EFC) implements the New York State Revolving Fund (SRF) for both Clean Water and Drinking Water projects. This guidance outlines the activities that must be performed by each Service Provider on an SRF funded project in order to comply with federal and New York State laws and regulations.

## **SECTION 1      EQUAL EMPLOYMENT OPPORTUNITY**

*\*\* (Applies to all contracts) \*\**

### **A.      WORKFORCE DIVERSITY**

Service Providers are required to document their efforts to meet EEO goals for the employment of minorities and women on all SRF funded projects on the EEO Workforce Utilization Report. The United States Department of Labor (DOL) has established EEO goals for employment of minority and women. The goals are available on EFC's website in the Prime Contractor Folder.

### **B.      EEO POLICY STATEMENT**

The EEO Policy Statement is documentation of a Service Provider's policy of non-discrimination in accordance with federal and state laws. The EEO Policy Statement must: be submitted to the Recipient's minority business officer (MBO) as part of any bid proposal; include language as defined above (see Required Terms for Project Contracts and Subcontracts – EEO Policy Statement definition); and be signed by each potential bidder.

The EEO Policy Statement can be found in the required forms section of this document and on EFC's website.

### **C.      EEO WORKFORCE STAFFING PLAN**

With the Bid, or when offering services, each Service Provider shall submit to the SRF Recipient an EEO Workforce Staffing Plan estimating the anticipated work force to be utilized on the project. The EEO Workforce Staffing Plan shall include information on the Service Provider's total work force, including apprentices, broken down by specific ethnic background, gender and Federal occupational categories.

Blank EEO Workforce Staffing Plans are found in the Required Forms section of this document and on EFC's website.

### **D.      EEO WORKFORCE UTILIZATION REPORTS**

Upon the execution of the contract and monthly thereafter, the Service Provider shall submit to the Recipient's MBO an EEO Workforce Utilization Report that documents the actual labor hours worked by ALL Service Provider AND subcontractor employees during the prior month period, on activities related to the contract, broken down by specific ethnic background, gender, and Federal occupational categories or other appropriate categories specified by the Recipient.

The EEO Workforce Utilization Report is part of the MWBE Monthly Report forms. Both the EEO Workforce Utilization Report and MWBE Monthly Report are found on the EFC website in the Prime Contractor folder.

All EEO Workforce Utilization Reports submitted by the Service Provider and subcontractor must reflect a separation of the workforce utilized in the performance of this contract from the Service Provider or subcontractor's total workforce. The EEO Workforce Utilization Report must indicate that the information provided relates to the actual workforce utilized. If the Service Provider or subcontractor fails to separate the workforce to be utilized on this contract from the total workforce as determined by Recipient, the Service Provider shall submit the EEO Workforce Utilization Report and indicate that the information provided is the Service Provider or subcontractor's total workforce during the subject time frame, not limited to work specifically under a particular contract.

## SECTION 2 MINORITY & WOMEN-OWNED BUSINESS ENTERPRISE and DISADVANTAGED BUSINESS ENTERPRISE

**\*\* (DBE Applies to all contracts**

**MWBE Applies to all:** (1) Service Provider Contracts greater than \$25,000  
(2) Projects that are initially under this thresholds but subsequent contract amendments increased the contract value above \$25,000  
(3) Change orders greater than \$25,000)\*\*

### A. MWBE REQUIREMENTS

Recipients, Service Provider and subcontractors must comply with New York State Executive Law, Article 15-A and New York Code of Rules and Regulations, Title 5 (5 NYCRR) Parts 140-145 (Regulations of the Commissioner of Economic Development).

Non-construction contracts, for the purposes of SRF MWBE compliance, are written agreements between an SRF Recipient and a Service Provider (or subcontractor) whereby the SRF Recipient commits to expend funds for the services (i.e. legal, engineering, financial advisory or other professional services, and labor); supplies; commodities; equipment; materials; and travel, or combination thereof in support of an SRF financed project.

Amendments or change orders for such non-construction contracts with a value greater than \$25,000 may be subject to MWBE requirements as well. The Service Provider is to seek additional MWBE participation for the additional value of the contract unless EFC determines otherwise.

If contracts with a value of \$25,000 or less have subsequent change orders or amendments that bring the total contract value to greater than \$25,000, the full value of the contract will then be subject to MWBE requirements.

### B. MWBE PARTICIPATION GOALS (FAIR SHARE OBJECTIVES)

Based on the report, "The State of Minority and Women-Owned Business Enterprise: Evidence of New York, April 29, 2010" (NYS Disparity Study), there is a demonstrated availability of MWBEs throughout New York State. Service Providers are required to solicit participation of MWBE firms (including subcontractors, consultants, and service providers) for SRF funded projects.

MWBE participation goals will be based on the execution date of each respective contract, unless MWBE participation goals have been otherwise specified in an executed SRF grant agreement or project finance agreement.

10/1/2012 – Present	MWBE Combined Goal*
All counties	20%

\*May be any combination of MBE and/or WBE participation

10/1/2011 – 9/30/2012	MWBE Combined Goal*
All counties	10%

\*May be any combination of MBE and/or WBE participation

10/13/2010 – 9/30/2011	MBE Goals	WBE Goals
All other counties non-NYC	8.8%	8.8%
New York City and Long Island Region (Bronx, Brooklyn, Manhattan, Queens, Staten Island, Nassau, Suffolk)	18.8%	20.5%

### C. RECEIVING CREDIT UNDER THE EFC MWBE PROGRAM

To receive MWBE participation credit, Service Provider that have been identified in an approved MWBE Utilization Plan (See Subsection D1 below for more information) must be certified as an MBE or WBE by the Division of Minority and Women's Business Development, Empire State

Development Corporation (ESDC). Conditional credit will be given for firms that have applications pending with ESDC.

Prime Service Providers that are certified MWBE firms will receive credit for MWBE participation.

A list of firms certified in New York State can be found on the ESD website at <http://www.ny.newnycontracts.com>. Searches can be performed by the business name and commodity code or business description.

## **D. NON-CONSTRUCTION CONTRACTOR'S MWBE RESPONSIBILITIES**

### **At the Time of Bid (if applicable):**

The completed forms listed below shall be part of the official bid submission by each competing Service Provider:

- **EPA Form 6100-3 "DBE Subcontractor Performance Form"**  
Each potential bidder shall complete this form and submit it to the MBO for each MWBE firm contacted during the bid or proposal preparation process, and make reasonable efforts to obtain signatures from the MBEs and WBEs contacted. This form shall be completed by each potential subcontractor and submitted to the MBO as part of the bid submission.
- **EPA Form 6100-4 "DBE Subcontractor Utilization Form"**  
This form shall be completed by each potential bidder and submitted to the MBO as part of the bid submission. On this form, each bidder offers their estimated plan for MBE and WBE utilization for their contract.

NOTE: The EEO Policy Statement should be completed and submitted at this time.

### **Prior to Award of the Contract:**

- **EPA Form 6100-2 "DBE Subcontractor Participation Form"**  
Distribute the form to MWBE Subcontractors who are listed on the 6100-4 form. Submit documented proof (e.g. email, letter, certified mail receipt) to the MBO that the 6100-2 form was sent to the MWBE Subcontractors. (See Part 3: Required Forms)

### **After Award of the Contract:**

Each prime Service Provider is obligated to seek MWBE participation and document their good faith efforts to meet MWBE goals.

#### **1. MWBE Utilization Plan (UP)**

- a. **Due Date:** MWBE UPs are required to be submitted to the MBO no later than the date of execution of the contract.
- b. **Preparation:** Each Service Provider shall prepare an MWBE UP that provides information describing MBEs and WBEs to be utilized during the term of the contract. The MWBE UP will reflect the EFC MWBE goals that apply to the contract as well as the Service Provider's anticipated MWBE participation. The Service Provider will transmit the completed MWBE UP form, with all pages filled out, to the MBO. Blank MWBE UP forms are available on the EFC website.

MWBE UP revisions should be submitted to the MBO, with the next monthly report. When an MWBE UP is revised due to execution of a change order, the change order should be submitted to the MBO with the revised MWBE UP.

- c. **NYS Certified:** The MBEs and WBEs identified in the MWBE UP must be certified by, or have applied for certification from:

Empire State Development Corporation  
 Division of Minority and Women's Business Development  
 625 Broadway  
 Albany, New York 12245  
 Phone: 1-800-782-8639  
<http://www.ny.newnycontracts.com>

- d. **Supplier Credit:** Credit for MBE/WBE participation shall be granted for MWBE firms performing a commercially useful business function according to custom and practice in the industry.

"Commercially useful functions" normally include:

- i. Providing technical assistance to a purchaser prior to a purchase, during installation, and after the supplies or equipment are placed in service;
- ii. Manufacturing or being the first tier below the manufacturer of supplies or equipment; or
- iii. Providing functions other than merely accepting and referring requests for supplies or equipment to another party for direct shipment to a Service Provider.
- iv. Being responsible for ordering, negotiating price, and determining quality and quantity of materials and supplies.

MBE/WBE goal crediting:

- i. For MWBE suppliers who are manufacturers, fabricators, or official manufacturer's representatives who are warehousing such goods, up to 100% of the MBE/WBE objective may be credited.
  - ii. No credit will be granted for MBEs and/or WBEs that do not provide a commercially useful function
- e. **Waiver Request:** If the Service Provider's application of good faith efforts does not result in the utilization of MBE and/or WBE firms to achieve the aforementioned goals or a specialty equipment/service waiver is requested, the Service Provider shall complete the waiver request portion of the MWBE Utilization Plan, attach appropriate documentation, and submit it to the MBO. **See Section F for more information.**
- f. **MWBE Utilization Plan Acceptance vs. Notice of Deficiency:** The MBO will evaluate a completed MWBE UP. Upon review and application of the requirements set forth in this guidance, if the MBO finds the UP acceptable, they will forward to EFC for review. If the MBO finds the UP insufficient, they will work with the Service Provider to address deficiencies before submitting to EFC for review. A written notice of acceptance or denial will be issued by EFC within 20 business days of receipt of the UP. Upon notice of deficiency to the Service Provider from either the MBO or EFC, the Service Provider shall respond with a written remedy to such notice within seven (7) business days.

In coordination with the MBO, EFC will accept a UP upon consideration of many factors, including the following:

- i. The UP indicates that the MWBE proposed goals for the project will be achieved;
- ii. A prime Service Provider, who is a certified MBE or WBE, will be credited for up to 100% of the category of their certification. However, good faith efforts to seek participation in the other category are required;
- iii. Adequate documentation to demonstrate good faith effort and/or support a specialty equipment/services waiver as described in Section D2.



- g. UP Acceptance:** Within 10 days of the final acceptance of a MWBE Utilization Plan or Waiver Request, EFC will post the approved MWBE Utilization Plan or Waiver Request on the EFC website.
- h. Conditional UP:** In coordination with the MBO, EFC may issue conditional acceptance of Utilization Plans pending submission of additional documentation that demonstrates there will be an increase in MWBE participation.
- i. Revisions of the MWBE Utilization Plans:** If project conditions change such that the information submitted in the approved MWBE UP is no longer valid, the Service Provider shall indicate the changes to the MBO in the next monthly report. At EFC's discretion, a completely revised MWBE UP form and good faith effort documentation may be required to be submitted.
- j. Projects Co-Funded with other state/federal agencies:** In the event EFC is providing financial assistance to a project that is also financially supported by other state/federal agencies, EFC may defer to the MBE and WBE participation goals and established by those agencies.

## 2. Good Faith Effort Documentation

Prime Service Providers shall maintain documentation of their efforts to solicit participation of MWBE firms for SRF-funded projects in an effort to meet the appropriate goals. In the event respective goals are not achieved, the Service Provider must submit sufficient documentation to demonstrate good faith efforts have been made to provide opportunities to certified MWBE firms to participate in SRF-funded projects.

Examples of documentation of good faith efforts are set forth below:

- Information on the scope of work related to the contract and specific steps taken to reasonably structure the scope of work to break out tasks or equipment needs for the purpose of providing opportunities for subcontracting with or obtaining supplies or services from MBEs or WBEs.
- Printed screenshots of the directory of Certified Minority and Women Owned Businesses (MWBE directory) on ESD's website on a statewide basis, if appropriate, for both MBEs and WBEs that provide the services or equipment necessary for the contract. Contact the MBO for assistance in performing a proper search including identifying a sufficient number of solicitations to show that good faith effort was made.
- Copies of timely solicitations and documentation that the Service Provider offered relevant plans, specifications, or other related materials to MBE and WBE firms on ESD's MWBE directory to participate in the work, with the responses.

The Service Provider is to offer sufficient advance notice proportional to the size and complexity of the contract to enable MBEs and WBEs to prepare an informed response to the solicitations for participation as a subcontractor or supplier. The solicitations and responses are required to be documented in a log to be submitted in the case where the goal is not met. The log should consist of the list of MBE and WBE firms solicited, their contact information, the type of work they were solicited to perform (or equipment to provide), how the solicitation was made (fax, phone, email) and the contact information, the contacts name and the outcome. If a bid was received, the bid price should also be included in the log. See a sample log entry below:

Date	M/WBE Type	Company	Scope of work	Contact Name	Phone/Email	Solicitation Format	MWBE Response	Negotiation Required?	Selected? If not, Explain

If no response was received to an initial solicitation, at least one follow-up solicitation should be made in a different format than the first, e.g. fax followed by phone call. Any bids received from non-MWBE firms should also be tracked on the log.

Submit the EPA 6100-3 and 6100-4 forms that are required as part of all bids or proposals. A properly completed EPA 6100-3 form is good indication of a contact to an MWBE and their response to the contact. If solicitations do not result in obtaining sufficient participation of MWBE firms due to non-responsiveness, please contact the MBO or EFC MWBE representative for support.

- Copies of any advertisements of sufficient duration to effectively seek participation of certified MBE and WBEs timely published in appropriate general circulation, trade and MWBE oriented publications, together with listing and dates of publication of such advertisements. EFC recommends the use of the Contract Reporter that is free to all Service Providers - <https://www.nyscr.ny.gov/>. A log should be kept of the responses to the ads, similar to the log for MWBE firm solicitation and should include the non-MWBE firms that responded and the bid prices. Any negotiations should be documented in the log.
- Documents demonstrating that insufficient MBEs or WBEs are reasonably available to perform the work. Based on the NYS Disparity Study, there is a presumption of MBE and WBE statewide availability, unless information is submitted indicating otherwise.
- A written demonstration that the Service Provider offered to make up any inability to meet the project MWBE participation goals in other contracts and/or agreements performed by the Service Providers on another SRF funded project.
- The date of pre-bid, pre-award, or other meetings scheduled by the Recipient, if any, and the contact information of any MBEs and WBEs who attended and are capable of performing work on the project.
- Any other information or documentation that demonstrates the Service Provider conducted good faith efforts to provide opportunities for MWBE participation in their work. For instance, prime Service Provider and MBOs should develop a list of MWBE firms that have expressed interest in working on SRF funded projects
- The use of certified Disadvantaged Business Enterprises (DBE), Small Business Administration (SBA), and Veteran-Owned Small Businesses (VOSB) may be considered as a demonstration of Good Faith Efforts.

### **3. Subcontract Agreements**

The Service Provider shall submit copies of all legally signed subcontracts, agreements, and purchase orders that are referred to in the MWBE Utilization Plan to the MBO within 30 days of their execution. These subcontracts and/or purchase orders must include the following information:

- a. Actual dollar amount of the subcontract;
- b. A job description of the work to be performed by the subcontractor;
- c. Signatures of both parties;
- d. Date of execution;
- e. MWBE language (included in this bid packet); and
- f. A signed EEO Policy Statement Agreement (See Required Forms).

NOTE: Purchase orders must be sent with copies of both sides of cancelled checks.

#### 4. Monthly Reports

The Service Provider must submit monthly MWBE payment reports supplemented with proof of payment to the MBO. Blank monthly report forms are available on EFC's website or from the MBO. Monthly reports should be submitted to the MBO within 3 business days after the end of each month being reported.

As part of the Monthly Report, the Service Provider must provide documentation to the MBO that subcontractors have been paid within 30 days of receipt of payment from the Recipient.

The final monthly payment report must reflect all Utilization Plan revisions and all change orders.

#### 5. Other Service Provider Responsibilities

- a. Continue good faith efforts to seek opportunities for MBE and WBE participation even if proposed goals have been achieved. In addition, any revisions to an MWBE Utilization Plan must be documented in the next monthly report to the MBO for approval.
- b. Provide written notification to the MBO and EFC of any termination of an MBE or WBE subcontractor. This should be reported as part of the revised MWBE Utilization Plan or in a monthly report.
- c. Provide timely and complete responses to inquiries from either the MBO or EFC staff as requested.
- d. Make all MWBE documents and records available upon request to EFC staff, the MBO, or their authorized representatives.
- e. Manage the project in a manner that creates meaningful opportunities for participation by MBEs and WBEs.
- f. Provide programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination on the basis of race, color, national origin (including limited English provision), age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law.

Additional guidance and requirements pertaining to the preparation and submission of the MWBE Utilization Plans can be found in the Part 1: Required Contract Language.

NOTE: Failure by the Service Provider to receive acceptance of the MWBE Utilization Plan by the Recipient or EFC may result in withholding of progress payments. Such withholding of progress payments shall not relieve the Service Provider of any contract requirements including the completion of the project within the specified contract time.

### E. SUBCONTRACTOR'S MWBE RESPONSIBILITIES

Subcontractors are those individuals or business enterprises that contract directly with Service Providers. Subcontractors should:

1. Maintain their MWBE certifications, and notify the Service Provider and MBO of any change in their certification status.
2. Respond promptly to solicitation requests by completing and submitting bid information in a timely manner.

3. Maintain business records that should include, but not be limited to, contracts/agreements, records of receipts, correspondence, purchase orders, and canceled checks.
4. Complete and submit the EPA Form 6100-3 "DBE Subcontractor Performance Form" to the Service Provider prior to submission of the bid (if applicable). Provide a receipt of EPA Form 6100-2 "DBE Subcontractor Participation Form" to the Service Provider prior to award of contract.
5. Ensure that a required EEO Policy Statement is included in each subcontract. Additionally, signed versions of each subcontract should be sent to the MBO within 30 days of execution.
6. Provide programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination on the basis of race, color, national origin (including limited English provision), age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law.
7. Notify the MBO and EFC when contract problems arise, such as non-payment for services or when the subcontractor is not employed as described in the MWBE Utilization Plan.
8. Perform the subcontracted scope of work in a professional and timely manner.

## F. WAIVER REQUESTS

Each Service Provider is required to create meaningful opportunities for certified MWBE participation and to offer the MWBE certified firms a fair share of their work. After making good faith efforts to create meaningful opportunities, a Service Provider may find that it is not possible to meet the MWBE goals. In that case, the Service Provider shall request a waiver from the goals.

Even if an MWBE waiver is granted, EEO information must still be submitted. The EEO information is submitted as part of the Monthly Report.

1. **Preparation:** The Service Provider shall complete the waiver request portion of the MWBE Utilization Plan and submit it to the MBO along with adequate good faith effort documentation and a letter explaining why the waiver is necessary.
2. **Waiver Review:** The MBO and EFC will review each waiver request based on the good faith effort criteria presented above and the documentation submitted with the waiver request. EFC will not issue any automatic waivers from MWBE responsibilities. A full or partial waiver from the MWBE goals can be requested.
3. **Specialty Equipment/Service Waiver:** A specialty equipment/service waiver may be granted in cases where:
  - a. equipment is made by only one non-MWBE manufacturer,
  - b. the technical contract specifications call for equipment that is not available through an MWBE supplier;
  - c. the equipment is constructed on site by specially trained non-MWBE labor;
  - d. the service is not available through an MWBE (such as work done by National Grid);
  - e. the service is proprietary in nature (such as use of certain computer software necessary for control systems); or
  - f. the service cannot be subcontracted (such as litigation services).

If the contract includes specialty equipment or services, and documentation is submitted demonstrating that there are no MBE/WBE firms capable of completing this portion of the contract, the specialty amount of the contract may be deducted from the total contract

amount to determine the MWBE Eligible Amount and the goals would be applied to the MWBE Eligible Amount. This determination is made at the discretion of the MBO and EFC.

**Example:**

$$\begin{array}{rcl} \$200,000 & - & \$50,000 \\ \text{(Contract)} & & \text{(Specialty equipment/service)} \end{array} = \begin{array}{r} \$150,000 \\ \text{(MWBE Eligible Amount)} \end{array}$$

The MWBE goal is applied to the remaining balance.

A request for this specialty equipment/service deduction can be completed by filling out section two of the MWBE Utilization Plan and submitting it to the MBO. The request must include a copy of the page from the contract where the equipment/ service is described and the cost of each item. Additional documentation may be requested by the MBO or EFC.

## **G. PROTESTS/COMPLAINTS**

Subcontractors or Service Providers who have any concerns, issues, or complaints regarding the implementation of the SRF MWBE/EEO Program, or wish to protest should do so in writing to the project MBO and EFC. The MBO, in consultation with EFC, will review the circumstances described in the submission, investigate to develop additional information, if warranted, and determine whether action is required. If the subcontractor believes the issue has not been resolved to their satisfaction, they may appeal in writing to EFC for consideration.

## **H. WASTE, FRAUD AND ABUSE**

Subcontractors, contractors, Service Provider, or Recipients who know of or suspect any instances of waste, fraud, or abuse within the MWBE & EEO Program should notify the project MBO and EFC immediately. Additionally, suspected fraud activity should be reported to the EPA – Office of Inspector General Hotline at (888) 546-8740, the New York State Office of Inspector General at (800) 367-4448, or the ESD Compliance Office at (212) 803-3268.

## **I. REMEDIES**

If a Recipient makes a determination that a Service Provider has been non-responsive, is non-responsible, or is in breach as a result of a failure to comply with the program requirements discussed in Part 1: Required Contract Language, Recipient may withhold funds under the contract or take such other actions, impose liquidated damages or commence enforcement proceedings.

If a Service Provider or subcontractor fails to submit to Recipient an EEO policy statement within the required timeframe, Recipient may declare the contract to be null and void.

A failure to submit and/or adhere to an EEO policy statement and an MWBE Utilization Plan, and any other required reports, shall constitute a material breach of the terms of the contract between the Service Provider and Recipient, and justify a finding of Service Provider non-responsiveness.

## **SECTION 3 RESTRICTIONS ON LOBBYING**

*\*\* (Applies to contracts greater than \$100,000) \*\**

Each Service Provider and subcontractor which has a contract with Recipient exceeding \$100,000 shall provide to the Recipient an executed certification on the form provided, that it will not expend appropriated federal funds to pay any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, officer or employee of Congress or any employee of any Member of Congress in accordance with the provisions of 40 CFR Part 34, and to maintain such certification for their own records.

## SECTION 4 AIS REQUIREMENTS

***\*\* (Applies only to Equipment and Materials Supplier contracts) \*\****

American Iron and Steel (AIS) requirements apply to any federally funded construction contract that meets all of the following conditions:

- For the construction, alteration, maintenance, or repair of public water system or treatment works;
- That execute a financial assistance agreement with the NYS Environmental Facilities Corporation (EFC) after January 17, 2014 for assistance through either the Clean Water State Revolving Fund (CWSRF) or the Drinking Water State Revolving Fund (DWSRF), and
- Did not have the project plans and specifications submitted for review by a NYS agency on or before January 17, 2014 and approved by a NYS agency before April 15, 2014.

The following activities must be implemented by each Service Provider on an SRF funded project in order to maintain compliance with the AIS program. These contractual obligations are included in the contract language in Part 1: Required Contract Language and expanded upon below.

### A. DEFINITIONS

It is required that all of the iron and steel products used in the project are produced in the United States. The term **"iron and steel products"** means the following products made primarily of iron or steel that is permanently incorporated into the public water system or treatment works:

Lined or unlined pipes or fittings  
 Manhole Covers  
 Municipal Castings (defined below);  
 Hydrants  
 Tanks  
 Flanges  
 Pipe clamps and restraints  
 Valves  
 Structural steel  
 Reinforced precast concrete  
 Construction materials (defined below)

For one of the listed products to be considered subject to the AIS requirement, it must be made of greater than 50% iron and steel, measured by material cost.

**Municipal castings** – cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and surface infrastructure. They are typically made of grey or ductile iron, or steel. Examples of municipal castings are:

Access Hatches	Inlets
Ballast Screen	Junction Boxes
Benches (Iron or Steel)	Lampposts
Bollards	Manhole Covers, Rings and
Cast Bases	Frames, Risers
Cast Iron Hinged Hatches	Meter Boxes
Cast Iron Riser Rings	Service Boxes
Catch Basin Inlet	Steel Hinged Hatches
Cleanout/Monument Boxes	Square and Rectangular
Construction Covers and Frames	Steel Riser Rings
Curb and Corner Guards	Trash receptacles
Curb Openings	Tree Grates
Detectable Warning Plates	Tree Guards
Downspout Shoes (Boot, Inlet)	Trench Grates
Drainage Grates, Frames and Curb	Valve Boxes, Covers and Risers
Inlets	

**Construction Materials** – articles, materials, or supplies made primarily of iron and steel that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment and systems. Some of these products may overlap with what is also considered “structural steel”. This includes, but is not limited to, the following products:

Wire rod	Fasteners (i.e.,	Roofing
Bar	nuts and	Ductwork
Angle	bolts)	Surface drains
Concrete	Welding rods	Cable hanging
Reinforcing	Decking	systems
bar	Grating	Manhole steps
Wire	Railings	Fencing and
Wire cloth	Stairs	fence tubing
Wire rope and	Access ramps	Guardrails
Cables	Fire escapes	Doors
Tubing	Ladders	Stationary
Framing	Wall panels	screens
Joists	Dome	
Trusses	structures	

**NOT Considered Construction Materials:** Mechanical and electrical components, equipment and systems are not considered construction materials. Mechanical equipment is typically that which has motorized parts and/or is powered by a motor. Electrical equipment is typically any machine powered by electricity and includes components that are part of the electrical distribution system.

The following examples (including their appurtenances necessary for their intended use and operation) are NOT considered construction materials:

Pumps	Membrane bioreactor systems
Motors	Membrane filtration systems
Gear reducers	Filters
Drives (including variable frequency drives (VFDs))	Clarifiers and clarifier mechanisms
Electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators),	Rakes
Mixers	Grinders
Gates	Disinfection systems
Motorized screens (such as traveling screens)	Presses (including belt presses)
Blowers/aeration equipment	Conveyors, cranes
Compressors	HVAC (excluding ductwork)
Meters	Water heaters
Sensors	Heat exchangers
Controls and switches	Generators
SCADA	Cabinetry and housings (such as electrical boxes/enclosures)
Metal office furniture	Lighting fixtures
Shelving	Electrical conduit
Laboratory equipment	Emergency life systems
Analytical instrumentation	
Dewatering equipment	

## **B. CERTIFICATION**

Each Service Provider that has a contract with the Recipient shall provide to the Recipient an executed certification on the form provided, that the iron and steel products and/or materials used on this project are in full compliance with the American Iron and Steel requirements in accordance with the provisions of the Consolidated Appropriations Act, and to maintain such certification for their own records.

It is recommended that a step certification process is used, in which each handler (supplier, fabricator, manufacturer, processor, etc) of the iron and steel products certifies that their step in the process was domestically performed. Each time a step in the manufacturing process takes place, the manufacturer delivers its work along with a certification of its origin.

A certification typically includes:

- a. the name of the manufacturer
- b. the location of the manufacturing facility where the product or process took place (not its headquarters)
- c. a description of the product or item being delivered
- d. a signature by a manufacturer's responsible party

These certifications should be collected and maintained by Recipients.

Alternatively, the final manufacturer that delivers the iron or steel product to the worksite, vendor, or Service Provider, may provide a certification asserting that all manufacturing processes occurred in the US. While this type of certification may be acceptable, it may not provide the same degree of assurance. Additional documentation may be needed if the certification is lacking important information.

## **C. WAIVER REQUESTS**

The EPA is allowed to issue waivers from the AIS requirements when:

- The application of the AIS requirements would be inconsistent with the public interest;
- Iron and steel products are not produced in the US in sufficient and reasonably available quantities and of a satisfactory quality; or
- Inclusion of iron and steel products produced in the US will increase the cost of the overall project by more than 25 percent.

AIS waivers can be product-specific, project-specific, regional, or nationwide. Waiver requests can only be submitted by either EFC or DOH to EPA, and only EPA can approve an AIS waiver. If the Service Provider is considering requesting an AIS waiver, documentation as described in the EPA guidance should be developed and submitted to the EFC or DOH Project Engineer. See EFC's website for EPA guidance.

### **1. Waiver Documentation:**

The Service Provider shall complete the waiver request to the Recipient along with adequate good faith effort documentation. Waiver requests should include the following information:

- a. Description of the foreign and domestic construction materials
- b. Unit of measure
- c. Quantity
- d. Price
- e. Time of delivery or availability
- f. Location of the construction project
- g. Name and address of the proposed supplier



- h. A detailed justification for the use of foreign construction materials

For **Cost Waiver Requests**, the Service Provider should compare the overall cost of the project with domestic iron and steel products to overall cost of the project with foreign iron and steel products. Relevant excerpts from the bid documents used by the Service Providers to complete the comparison, as well as supporting documentation indicating that the Service Providers made a reasonable survey of the market, such as a description of the process for identifying suppliers and a list of contacted suppliers may be used.

For **Availability Waiver Requests**, the request must include the following supporting documentation necessary to demonstrate the availability, quantity and/or quality of the materials for which the waiver is requested:

- a. Supplier information or pricing information from a reasonable number of domestic suppliers indicating availability/delivery date for construction materials
- b. Documentation of the assistance recipient's efforts to find available domestic sources, such as a description of the process for identifying suppliers and a list of contacted suppliers
- c. Project schedule
- d. Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of construction materials

Availability Waiver Requests should include a statement from the prime Service Provider and/or supplier confirming the non-availability of the domestic construction materials for which the waiver is sought.

## 2. Waiver Review:

The Recipient and EFC will review each waiver request based on the criteria presented above and the documentation submitted with the waiver request. EFC will submit waiver request directly to EPA for final approval of submission. Granting a waiver is a three-step process:

- a. Posting – After receiving an application for waiver of the AIS requirements, EPA will publish the request on its website for 15 days and receive informal comment.
- b. Evaluation – EPA will review the application to determine whether the application properly and adequately documents and justifies the statutory basis cited for the waiver to make a determination.
- c. Determination – In the event that EPA finds that adequate documentation and justification has been submitted, the EPA may grant a waiver to the Recipient. The Recipient should keep a copy of the signed waiver in its project files.

## D. DE MINIMIS WAIVER

The AIS de minimis waiver allows that incidental iron and steel components that are tracked in a certain manner are exempt for the AIS requirements. Items that can be subject to the de minimis waiver must be:

1. Essential, but incidental to the construction
2. Incorporated into the physical structure of the project, and
3. Often are low cost and procured in bulk.

Examples items eligible for de minimis tracking include: washers, screws, nuts, bolts, fasteners, miscellaneous wire, corner bead, ancillary tubing, etc.

Examples of items that are NOT incidental and cannot be considered for de minimis tracking include: process fittings, tees, elbows, flanges, brackets, valves, sewer or water pipes for distribution, treatment or storage tanks, large structural support systems, etc.

To comply with the de minimis waiver, all items that are waived must meet the above criteria and must be 5% or less of the total cost of materials incorporated into the project. This can be measured on a project basis, or on a contract-by-contract basis, as long as the cost of the tracked de minimis iron and steel items is 5% or less of the total material cost of materials incorporated into the project.

Service Providers should prepare a record, in spreadsheet form, which tracks the cost of all materials incorporated into the project. This spreadsheet can be either project specific or contract specific. If contract specific, a material tracking record for each construction contract should be prepared and items that are subject to the AIS de minimis waiver highlighted. There should be a clear calculation available to indicate that the cost of the de minimis iron and steel items is 5% or less of the total cost of all materials.

## **E. INSPECTIONS**

EFC or DOH can be expected to conduct occasional site inspections that will include a review of AIS documentation for the project. Items that will be reviewed during these inspections include:

1. AIS certifications from vendors, suppliers, or manufacturers;
2. Contract and subcontracts to verify that the AIS contractual language has been included; and
3. The lists of the incidental iron and steel project components that are claimed under the AIS de minimis waiver.

## **F. BEST PRACTICES**

The following Best Practices are suggestions and recommendations for the Service Provider to remain in compliance with the AIS program. The EFC can be contacted directly with any questions regarding compliance.

1. The Service Provider should carefully review the plans and specifications prepared to identify iron and steel products (as defined previously in Section 5.A) used in each project and incorporate American-made iron and steel at the time of bid.
2. The Service Provider should acquire product certifications from all suppliers and manufacturers for iron and steel products verifying that the products used in the project are American-made. These certifications should be kept on file for the duration of the project and provided to the SRF Recipient.
3. The product/manufacture certifications should be submitted with each equipment/material submittal to the Recipient and/or Engineer. The Service Provider should retain all delivery slips, certifications and approved submittals in their file for the duration of the project.

## EEO PROGRAM CHECKLIST

The EEO program is required of all contracts.

The following forms must be completed and submitted to the Recipient. Refer to the applicable sections in the Guidance for further information.

At the Time of Bid:

**Guidance Reference**

- |  |             |
|--|-------------|
| <input type="checkbox"/> EEO Policy Statement        | Section 1.B |
| <input type="checkbox"/> EEO Workforce Staffing Plan | Section 1.C |

After Contract Award:

- |   |             |
|---|-------------|
| <input type="checkbox"/> EEO Utilization Report | Section 1.D |
|---|-------------|

## MWBE and DBE PROGRAM CHECKLIST

**Service Providers must comply with the MWBE program if “yes” is answered for ANY of the following questions. The DBE program is required of all contracts.**

Yes   No

- |                          |                          |   |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | The Service Provider contract greater than \$25,000.  |
| <input type="checkbox"/> | <input type="checkbox"/> | The initial Service Provider contract was \$25,000 or less, but a subsequent change order increased the total contracted value over \$25,000. |
| <input type="checkbox"/> | <input type="checkbox"/> | A contract amendment was approved that is greater than \$25,000.  |
| <input type="checkbox"/> | <input type="checkbox"/> | A partial or full waiver was not approved by the EFC.   |

**If you answered YES to any of the above, then the following MWBE forms must be completed and submitted to the Recipient. The DBE forms are required of all contracts that are bid. Refer to the applicable sections in the Guidance for further information.**

### At the Time of Bid:

### Guidance Reference

- |                          |   |             |
|--------------------------|---|-------------|
| <input type="checkbox"/> | EPA Form 6100-3: “DBE Subcontractor Performance Form” | Section 2.D |
| <input type="checkbox"/> | EPA Form 6100-4: “DBE Subcontractor Utilization Form” | Section 2.D |

### Prior to Contract Award

- |                          |   |             |
|--------------------------|---|-------------|
| <input type="checkbox"/> | EPA Form 6100-2: “DBE Subcontractor Participation Form” | Section 2.D |
|--------------------------|---|-------------|

### After Contract Award

- |                          |  |               |
|--------------------------|--|---------------|
| <input type="checkbox"/> | MWBE Utilization Plan and/or Waiver Request and any revisions subsequent to approval | Section 2.D.1 |
| <input type="checkbox"/> | Good Faith Effort Documentation (if submitting a waiver)                             | Section 2.D.2 |
| <input type="checkbox"/> | All executed subcontracts, agreements and purchase orders                            | Section 2.D.3 |
| <input type="checkbox"/> | Proof of payment to MWBE firms   | Section 2.D.4 |
| <input type="checkbox"/> | Monthly MWBE Reports   | Section 2.D.4 |

## AMERICAN IRON AND STEEL (AIS) REQUIREMENTS CHECKLIST

**Service Providers must comply with the AIS program if “yes” is answered for ALL of the following questions.**

Yes   No

- |   |  |
|---|--|
| <input type="checkbox"/> <input type="checkbox"/> | As part of your scope of services you are supplying the Recipient with construction materials or equipment to be installed as part of this project.  |
| <input type="checkbox"/> <input type="checkbox"/> | This project involves the construction, alteration, maintenance, or repair of a public water system (DWSRF) or treatment works (CWSRF). Examples of treatment works include but are not limited to collection systems, pump stations, and wastewater treatment plants (see Definitions). |
| <input type="checkbox"/> <input type="checkbox"/> | A financing assistance agreement with the NYS Environmental Facilities Corporation (EFC) was executed after January 17 for assistance through either the Clean Water State Revolving Fund (CWSRF) or the Drinking Water State Revolving Fund (DWSRF).                                    |
| <input type="checkbox"/> <input type="checkbox"/> | The project did not have the project plans and specifications submitted for review by a NYS agency on or before January 17, 2014 and approved by a NYS agency before April 15, 2014.   |

**If you answered YES to all of the above, then the following forms must be completed and submitted to the Recipient. Refer to the applicable sections in the Guidance for further information.**

### After Contract Award

### **Guidance Reference**

- |   |             |
|---|-------------|
| <input type="checkbox"/> AIS Compliance Certifications for all applicable iron and steel products | Section 4.B |
|---|-------------|

*Text Left Blank*

**PART 3:**  
**REQUIRED FORMS**  
**FOR NON-CONSTRUCTION CONTRACTS**

All required forms can be found on the EFC website ([www.efc.ny.gov](http://www.efc.ny.gov))

**The following SRF forms are provided and may be required. Please refer to the Guidance Section Checklists to determine which forms are applicable to your project.**

	<b>Guidance Reference</b>
<input type="checkbox"/> EEO Policy Statement	Section 1.B
<input type="checkbox"/> EEO Staffing Plan (form available online only)	Section 1.C
<input type="checkbox"/> EEO Workforce Utilization Report (form available online only)	Section 1.D
<input type="checkbox"/> MWBE Utilization Plan & Waiver Request Form (form available online only)	Section 2.D.1
<input type="checkbox"/> Contractor's MWBE Monthly Report & EEO Workforce Utilization Report Form (form available online only)	Section 2.D.4
<input type="checkbox"/> EPA Form 6100-2 "DBE Subcontractor Participation Form"	Section 2.D
<input type="checkbox"/> EPA Form 6100-3 "DBE Subcontractor Performance Form"	Section 2.D
<input type="checkbox"/> EPA Form 6100-4 "DBE Subcontractor Utilization Form"	Section 2.D
<input type="checkbox"/> Lobbying Certification (Certification for Contracts, Grants, Loans, and Cooperative Agreements 30 CFR 34)	Section 3
<input type="checkbox"/> AIS Compliance Certification	Section 4.B



**AGREEMENT TO ABIDE BY EQUAL EMPLOYMENT OPPORTUNITY  
POLICY STATEMENT REQUIREMENTS  
NEW YORK STATE REVOLVING FUND (SRF)**

I, \_\_\_\_\_, am the authorized representative of \_\_\_\_\_.  
Name of Representative Name of Contractor/Service Provider  
I hereby certify that \_\_\_\_\_ will abide by the equal employment  
Name of Contractor/Service Provider  
opportunity (EEO) policy statement provisions outlined below.

- (i) A statement that the contractor will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on contracts relating to the Project.
- (ii) An agreement that all of contractor's solicitations or advertisements for employees will state that, in the performance of the contract relating to this Project, all qualified applicants will be afforded equal employment opportunities without discrimination on the basis of race, creed, color, national origin, sex, age, disability or marital status.
- (iii) An agreement to 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.
- (iv) An agreement to comply with the provisions of the Human Rights Law (Article 15 of the Executive Law), including those relating to non-discrimination on the basis of prior criminal conviction and prior arrest, and with all other State and federal statutory constitutional non-discrimination provisions.

Blank EEO Policy Statements are available at [www.efc.ny.gov/mwbe](http://www.efc.ny.gov/mwbe), if needed.

If contractor fails to submit to Recipient an EEO policy statement consistent with the provisions set forth above in clauses (i), (ii), (iii) and (iv) and within the timeframe required thereof, Recipient may declare this contract to be null and void.

**X**

\_\_\_\_\_  
Contractor/Service Provider Representative

Once completed, please provide to the Prime Contractor and/or the community MBO

## Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Participation Form

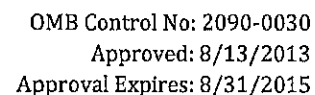
An EPA Financial Assistance Agreement Recipient must require its prime contractors to provide this form to its DBE subcontractors. This form gives a DBE<sup>1</sup> subcontractor<sup>2</sup> the opportunity to describe work received and/or report any concerns regarding the EPA-funded project (e.g., in areas such as termination by prime contractor, late payments, etc.). The DBE subcontractor can, as an option, complete and submit this form to the EPA DBE Coordinator at any time during the project period of performance.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Received from the Prime Contractor Involving Construction, Services , Equipment or Supplies	Amount Received by Prime Contractor

<sup>1</sup> A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup> Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



Please use the space below to report any concerns regarding the above EPA-funded project:

[illegible]

<b>Subcontractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

## Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Performance Form

This form is intended to capture the DBE<sup>1</sup> subcontractor's<sup>2</sup> description of work to be performed and the price of the work submitted to the prime contractor. An EPA Financial Assistance Agreement Recipient must require its prime contractor to have its DBE subcontractors complete this form and include all completed forms in the prime contractors bid or proposal package.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Submitted to the Prime Contractor Involving Construction, Services, Equipment or Supplies	Price of Work Submitted to the Prime Contractor

DBE Certified By: <input type="radio"/> DOT <input type="radio"/> SBA <input type="radio"/> Other: _____	Meets/ exceeds EPA certification standards? <input type="radio"/> YES <input type="radio"/> NO <input type="radio"/> Unknown
---	---

<sup>1</sup> A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup> Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

**Disadvantaged Business Enterprise (DBE) Program  
DBE Subcontractor Performance Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

<b>Prime Contractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

<b>Subcontractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

U.S. DEPARTMENT OF JUSTICE  
OFFICE OF JUSTICE PROGRAMS  
OFFICE OF THE COMPTROLLER

**Certification Regarding  
Debarment, Suspension, Ineligibility and Voluntary Exclusion  
Lower Tier Covered Transactions  
(Sub-Recipient)**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 28 CFR Part 67, Section 67.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211).

**(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)**

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department of agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Stephen Hadjixane Vice President 1/12/16  
Name and Title of Authorized Representative m/d/yy

[Signature] 1/12/16  
Signature Date

Coanett Fleming Engineers, P.C.  
Name of Organization

100 Crossways Park W Ste 300 Woodbury, NY 11797  
Address of Organization

### Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposes," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of reports in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Minority & Women Owned Business Enterprise (MWBE) Utilization Plan & Waiver Request Form**  
(Revised 09/2014)

SECTION 1: MUNICIPAL INFORMATION				
Recipient/Municipality:		County:		
SRF Project No.:	GIGP No.:	Contract ID:	Registration No. (NYC only):	
Minority Business Officer:		Email:	Phone #:	
Address of MBO:				
Signature of MBO: (Required even if Authorized Rep. is filled out) <input type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.				
<i>Complete if applicable: MBO may authorize representative to complete &amp; submit quarterly payment reports.</i>				
Authorized Representative:		Title:		
Authorized Rep. Company:		Email:	Phone #:	
Electronic Signature of Authorized Rep.: <input type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.				

SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION				
If contract is performed through an MWBE Joint Venture or Teaming Arrangement please submit the additional form found at <a href="http://www.cfc.ny.gov/mwbe">www.cfc.ny.gov/mwbe</a>				
Firm Name: Gannett Fleming Engineers, PC		Contract Type: <input type="checkbox"/> Construction <input checked="" type="checkbox"/> Other Services		
Prime Firm is Certified as: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Other: Please repeat information in the Utilization Plan below (Section 3). If dual certified, you must select either MBE or WBE.				
Address: Suite 300, 100 Crossways Park West, Woodbury, NY 11797-2012		Phone #: (516) 364-4140	Fed. Employer ID #: 52-2151596	
Description of Work: Construction Management Services for Stormwater Pumping Stations at the Bay Park Sewage Treatment Plant				
Award Date: 12/2015	Start Date: 01/2016	Completion Date: 02/2018	MWBE GOAL Total	PROPOSED MWBE Participation
Total Contract Amount: \$ 1,023,687.74			M/WBE: 20% \$ 204,737.54	MBE: 19.62% \$ 200,849.78
MWBE Eligible Contract Amount: \$ 205,658.95 (MWBE Goals are applied to this amount and includes all change orders, amendments, & waivers)			WBE: 0.47% \$ 4,809.17	
			Total: 20% \$ 204,737.54	Total: 20.09% \$ 205,658.95
If waivers are requested, documentation must be attached: <input type="checkbox"/> Full Waiver (No Participation) <input type="checkbox"/> Partial Waiver (Short of the MWBE Goal)				
<input type="checkbox"/> Specialty Equipment/Services Waiver (must be of SIGNIFICANT cost - list of equipment and cost & good faith effort documentation must be attached)				
Electronic Signature of Contractor: <input checked="" type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and that all MWBE subcontractors will perform a commercially useful function.				
Name (Please Type): Doreen M. Bartoldus, PE, CCM, LEED GA, ENV SP, Vice President				Date: 01/07/16



**Minority & Women Owned Business Enterprise (MWBE) Utilization Plan & Waiver Request Form**  
(Revised 09/2014)

SECTION 3: UTILIZATION PLAN					
This Submittal is:		<input checked="" type="checkbox"/> The First/Original Utilization Plan <input type="checkbox"/> Revised Utilization Plan #:		For EFC Use:	
NYS Certified MWBE Contractor & Subcontractor Info (MBO to check certifications)		Contract Amount:			
		MBE (\$)	WBE (\$)		
Name: Techno Consult, Inc.		Fed. Employer ID#:			
Address: 5 Independence Way, Suite 150, Princeton, NJ 08540		Phone #: (609) 720-1200			
Scope of Work: Mechanical and Electrical Inspection		Email: KMallick@techno-eng.com			
Select Only One: <input checked="" type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:		Start Date: 01/2016			
Full Contract Amount: \$ 1,023,687.74		Completion Date: 02/2018		\$200,849.78	N/A
Name: Site Safety Solutions, LLC		Fed. Employer ID#: 45-5541641			
Address: 6 Dara Ct., Monroe, NY 10950		Phone #: (845) 325-8209			
Scope of Work: Health and Safety, Health and Safety Field Inspection		Email: lbirnbaum@sitesafetyolutionsllc.com			
Select Only One: <input type="checkbox"/> MBE <input checked="" type="checkbox"/> WBE <input type="checkbox"/> Other:		Start Date: 01/2016			
Full Contract Amount: \$ 1,023,687.74		Completion Date: 02/2018		N/A	\$4,809.17
Name:		Fed. Employer ID#:			
Address:		Phone #:			
Scope of Work:		Email:			
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:		Start Date:			
Full Contract Amount: \$		Completion Date:			
Name:		Fed. Employer ID#:			
Address:		Phone #:			
Scope of Work:		Email:			
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:		Start Date:			
Full Contract Amount: \$		Completion Date:			
Name:		Fed. Employer ID#:			
Address:		Phone #:			
Scope of Work:		Email:			
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:		Start Date:			
Full Contract Amount: \$		Completion Date:			

**Minority & Women Owned Business Enterprise (MWBE) Utilization Plan & Waiver Request Form**  
(Revised 09/2014)

<b>Full Contract Amount: \$</b>	<b>Completion Date:</b>		
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NYS Certified M/WBE Contractor & Subcontractor Info (MBO to check certifications)		Contract Amount:		For EFC Use:
		MBE (\$)	WBE (\$)	
<b>Name:</b>	<b>Fed. Employer ID#:</b>			
<b>Address:</b>	<b>Phone #:</b>			
<b>Scope of Work:</b>	<b>Email:</b>			
<b>Select Only One:</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>			
<b>Full Contract Amount: \$</b>	<b>Completion Date:</b>			
<b>Name:</b>	<b>Fed. Employer ID#:</b>			
<b>Address:</b>	<b>Phone #:</b>			
<b>Scope of Work:</b>	<b>Email:</b>			
<b>Select Only One:</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>			
<b>Full Contract Amount: \$</b>	<b>Completion Date:</b>			
<b>Name:</b>	<b>Fed. Employer ID#:</b>			
<b>Address:</b>	<b>Phone #:</b>			
<b>Scope of Work:</b>	<b>Email:</b>			
<b>Select Only One:</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>			
<b>Full Contract Amount: \$</b>	<b>Completion Date:</b>			
<b>Name:</b>	<b>Fed. Employer ID#:</b>			
<b>Address:</b>	<b>Phone #:</b>			
<b>Scope of Work:</b>	<b>Email:</b>			
<b>Select Only One:</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>			
<b>Full Contract Amount: \$</b>	<b>Completion Date:</b>			

**Minority & Women Owned Business Enterprise (MWBE) Utilization Plan & Waiver Request Form**  
(Revised 09/2014)

**SECTION 4: EEO STAFFING PLAN (Service Providers Only - Instructions on the following page)**

Municipality: N/A	County: Nassau	SRF Project No.: N/A	Contract ID: S35121-18M
Service Provider Name: Gannett Fleming Engineers, PC		Date: January 7, 2016	

**Report Includes - Please select one from the options below:**

- ☐ Workforce utilized on this contract  
☒ Contractor/subcontractor's total workforce

**Reporting Entity - Please select one from the options below:**

- ☒ Prime Service Provider  
☐ Subcontractor

Job Categories	Hispanic/Latino		Not Hispanic or Latino					
			Male			Female		
	Male	Female	White	Black/African American	Native Hawaiian/Other Pacific Islander	Asian	Native American/Alaska Native	Two or More Races
Senior Level Officials/Managers	6	2	136	0	0	6	0	0
Mid-Level Officials/Managers	3	0	188	6	1	10	0	0
Professionals	31	18	693	13	0	52	0	0
Technicians	16	3	221	25	0	15	1	3
Sales Workers	0	0	0	0	0	0	0	0
Administrative Support Workers	0	6	20	1	0	0	0	0
Skilled Craftsmen	0	0	0	0	0	0	0	0
Operatives Semi-Skilled	0	0	0	0	0	0	0	0
Laborers & Helpers	0	0	0	0	0	0	0	0
Service Workers	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>56</b>	<b>29</b>	<b>1258</b>	<b>45</b>	<b>1</b>	<b>83</b>	<b>1</b>	<b>12</b>
Journeypersons								
Apprentices								
Trainees								

**Electronic Signature of Service Provider:** ☒ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge.

**Name (Please Type):** Doreen M. Bartoldus, PE, CCM, LEED GA, ENV SP, Vice President

**Date:** 01/07/16

**Minority & Women Owned Business Enterprise (MWBE) Utilization Plan & Waiver Request Form**  
(Revised 09/2014)

**SECTION 4: EEO STAFFING PLAN (Service Providers Only - Instructions on the following page)**

Municipality: N/A	County: Nassau	SRF Project No.: N/A	Contract ID: S35121-18M
Service Provider Name: Site Safety Solutions, LLC		Date: January 7, 2016	

**Report Includes -- Please select one from the options below:**

☐ Workforce utilized on this contract

☒ Contractor/subcontractor's total workforce

**Reporting Entity -- Please select one from the options below:**

☐ Prime Service Provider

☒ Subcontractor

Job Categories	Hispanic/Latino		Not Hispanic or Latino													
	Male	Female	Male				Female									
			White	Black/African American	Native Hawaiian/Other Pacific Islander	Asian	Native American/Alaska Native	Two or More Races	White	Black/African American	Native Hawaiian/Other Pacific Islander	Asian	Native American/Alaska Native	Two or More Races		
Senior Level Officials/Managers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mid-Level Officials/Managers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Professionals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Technicians	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Sales Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Administrative Support Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Skilled Craftsmen	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Operatives Semi-Skilled	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Laborers & Helpers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Service Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Journeypersons																
Apprentices																
Trainees																

**Electronic Signature of Service Provider:** ☒ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge.

Name (Please Type): Leslie Birnbaum

Date: 01/07/16

**Minority & Women Owned Business Enterprise (MWBE) Utilization Plan & Waiver Request Form**  
(Revised 09/2014)

Municipality: N/A	County: Nassau	SRF Project No.: N/A	Contract ID: S35121-18M
Service Provider Name: Techno Consult, Inc.		Date: January 7, 2016	

**Report Includes -- Please select one from the options below:**

☒ Workforce utilized on this contract

☐ Contractor/subcontractor's total workforce

**Reporting Entity -- Please select one from the options below:**

☐ Prime Service Provider

☒ Subcontractor

Job Categories	Hispanic/Latino		Not Hispanic or Latino												
			Male				Female								
	Male	Female	White	Black/African American	Native Hawaiian/Other Pacific Islander	Asian	Native American/Alaska Native	Two or More Races	White	Black/African American	Native Hawaiian/Other Pacific Islander	Asian	Native American/Alaska Native	Two or More Races	
Senior Level Officials/Managers	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Mid-Level Officials/Managers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Professionals	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0
Technicians	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sales Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Administrative Support Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Skilled Craftsmen	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Operatives Semi-Skilled	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Laborers & Helpers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Service Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	0	0	1	0	0	2	0	0	0	0	0	0	0	0	0
Journeypersons															
Apprentices															
Trainees															

**Electronic Signature of Service Provider:** ☒ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge.  
**Name (Please Type):** Khalid Mallick, PE (President)

**Date:** 01/07/16

**Minority & Women Owned Business Enterprise (MWBE) Utilization Plan & Waiver Request Form**  
(Revised 09/2014)

**INSTRUCTIONS**

**General Instructions:** All Service Providers (including legal, engineering, financial advisory or other professional services, and labor) and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan and submit it as part of the MWBE Utilization Plan no later than the date of execution of the contract. Where the work force to be utilized in the performance of the contract **can** be separated out from the contractor's or subcontractors' total work force, the contractor shall complete this form *only for the anticipated work force to be utilized on the contract*. Where the work force to be utilized in the performance of the contract **cannot** be separated out from the contractor's or subcontractors' total work force, the contractor shall complete this form for the contractor's or subcontractors' *total work force*.

**RACE/ETHNIC IDENTIFICATION:** Definitions of race and ethnicity for purposes of completion of this form are as follows:

- **Hispanic or Latino** - A person having origins in Cuba, Mexico, Puerto Rico, South or Central America.
- **White** - A person having origins of Europe, the Middle East, or North Africa.
- **Black or African-American** - A person having origins in any of the black racial groups of Africa.
- **Native Hawaiian or Other Pacific Islander** - A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- **Asian** - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent
- **American Indian or Alaska Native** - A person having origins in any of the original peoples of North, Central, and South America and who maintain tribal affiliation or community attachment.
- **Two or More Races** - All persons who identify with more than one of the above (Non-Hispanic or Latino) five races.

**DESCRIPTION OF JOB CATEGORIES**

The major job categories used in EEO Staffing Plan are listed below.

**Senior Level Officials and Managers** - Individuals residing in the highest levels of organizations who plan, direct and formulate policies, set strategy and provide the overall direction of enterprises/organizations for the development and delivery of products or services.

**Mid-Level Officials and Managers** - Individuals who receive directions from the Senior Level management and serve as managers, other than those who serve as Senior Level Officials and Managers, including those who oversee and direct the delivery of products, services or functions at group, regional or divisional levels of organizations

**Professionals** - Most jobs in this category require bachelor and graduate degrees, and/or professional certification. In some instances, comparable experience may establish a person's qualifications.

**Technicians** - Jobs in this category include activities that require applied scientific skills, usually obtained by post-secondary education of varying lengths, depending on the particular occupation, recognizing that in some instances additional training, certification, or comparable experience is required.

**Sales Workers** - These jobs include non-managerial activities that wholly and primarily involve direct sales.

**Administrative Support Workers** - These jobs involve non-managerial tasks providing administrative and support assistance, primarily in office settings.

**Skilled Craftsmen** - Includes higher skilled occupations in construction (building trades craft workers and their formal apprentices) and natural resource extraction workers. Examples of these types of positions include: boilermakers; brick and stone masons; carpenters; electricians; painters

**Operatives Semi-Skilled** - Most jobs in this category include intermediate skilled occupations and include workers who operate machines or factory-related processing equipment. Most of these occupations do not usually require more than several months of training. Examples include: textile machine workers;

**Laborers & Helpers** - Jobs in this category include workers with more limited skills who require only brief training to perform tasks that require little or no independent judgment.

**Service Workers** - Jobs in this category include food service, cleaning service, personal service, and protective service activities.