

# **NIAGARA FALLS WATER BOARD**

## **REQUEST FOR SEALED BIDS FOR: PRIMARY TREATMENT POLYMER BID #W2020-03**

Bids on items as specified herein shall be accepted by the Purchasing Division, 745 Main Street, Room 214, Niagara Falls, New York 14301 on behalf of the Niagara Falls Water Board ("Board") until 11:00 a.m. on Wednesday, September 9, 2020, and opened at that time.

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

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

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

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

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

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

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

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

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

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

**Anti-Discriminatory Statement:**

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

**VENDOR NAME:**

\_\_\_\_\_

**VENDOR ADDRESS:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CONTACT PERSON REGARDING BID: \_\_\_\_\_

CONTACT PERSON'S TELEPHONE NUMBER: \_\_\_\_\_

CONTACT PERSON'S EMAIL ADDRESS: \_\_\_\_\_

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

NAME AND TITLE: \_\_\_\_\_

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

=====

**MAIL BIDS TO:**

NIAGARA FALLS WATER BOARD  
C/O PURCHASING DIVISION, ROOM 214  
P.O. BOX 69  
NIAGARA FALLS, NEW YORK 14302-0069

**DELIVER BIDS TO:**

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

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

## **SPECIFICATIONS AND TERMS (Page 1 of 2)**

1. Bids will be received by the Purchasing Division on behalf of the Board at 745 Main Street, Niagara Falls, New York 14301, Room 214 for the purchase of primary treatment polymer as set forth and described herein.
2. The term of this contract/agreement shall be for one (1) year from the date of award. If mutually agreeable to the successful vendor and Board, this contract/agreement may be extended annually for up to two (2) years upon the same terms and conditions. All pricing must remain firm for the entire aforementioned terms.
3. Following the opening of the valid submissions, the Board will conduct its due diligence. Once the due diligence investigation is completed, the Board shall either reject all bids or the lowest responsible bid will be submitted to the members of the Board for possible award via majority vote.
4. All materials are to conform to the most recent appropriate industry standards and be of the manufacturer's most recent improved design.
5. Deliveries are to be made to Niagara Falls Water Board Wastewater Treatment Plant, 1200 Buffalo Avenue, Niagara Falls, New York 14303 unless another destination within the City of Niagara Falls is specified at the time of order.
6. Vendors shall quote a unit price per pound for each item as set forth on the Price Sheet, and said unit price shall be F.O.B. destination, freight prepaid.
7. Material is to be delivered in sealed bags and palletized. Individual bags must be properly labeled. Individual shipments will not exceed 20,000 pounds.
8. Where indicated, the quantities listed on the price sheet are estimated quantities to be ordered. Items will be ordered as needed, and the Board reserves the right to order more or less than the quantities listed. No guarantees are made as to minimum or maximum quantities the Board will require.
9. The quantities to be bid will be specified by the Board as calculated from dosage rates determined by testing and confirmed by qualified Board personnel.
10. Vendors wishing to submit candidate polymer(s) must do so no later than **August 7, 2020**. Vendors may submit a maximum of two (2) candidate polymers for Board laboratory screening.
11. Vendors wishing to schedule a laboratory screening are asked to contact Brian Eldridge at [beldridge@nfwb.org](mailto:beldridge@nfwb.org).
12. The Board reserves the right to test each candidate polymer to ensure it properly flocculates the wastewater and conditions the sludge.
13. The Board will test each candidate polymer to determine the quantity necessary to flocculate approximately 30 MGD of moderate strength wastewater (approximately 50% chemical industry origin) using Ferric Chloride as primary coagulant. Use of present polymer has averaged approximately 2,000 pounds per month.

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

14. Vendors will be obliged to accommodate the Board's schedule for laboratory screening that will be established as requests for evaluation are received. Because of the nature of the polymer mixing facilities available at the Wastewater Treatment Plant, only non-dusting, dry grade polymer products will be considered.
15. Vendors will be permitted to test a selection of their polymers that can be reasonably expected to perform in the specified applications. Vendors will be allowed to run time-limited lab scale tests at the Treatment Plant site. They will be afforded space and the use of utilities and weighing equipment but must supply all other equipment and test materials. Vendors may use comparative tests of the presently used polymer as a guide to performance.
16. Testing may be observed by Board personnel at the Board's sole discretion. Based upon the evaluation results made available to the Board, the vendor will select a maximum of two polymers upon which the Board will run confirming tests to determine equivalent dosages for each polymer. The Board will also determine whether each polymer is approved for bidding.
17. Vendors must submit polymer specifications including the polymer charge data prior to testing.
18. The Board may purchase a limited quantity of a polymer at the bid price to use in plant scale tests prior to the award of the bid.
19. Vendors submitting polymer(s) for evaluation will be notified on or about August 21, 2020 regarding the evaluation results. Results will be forwarded to all vendors who have submitted polymers. Results will indicate whether a polymer has been approved for bidding and the estimated annual usage of each polymer in pounds. The bid will be awarded based upon the lowest annual cost to the Board.
20. Notice of dissatisfaction with a shipment of material, because of failure to meet the requirements of this specification, must be in the hands of the vendor within ten (10) days after receipt of the shipment at the point of destination. If the material does not meet the requirements of these standards, the vendor may remove the material from the premises of the purchaser or a price adjustment may be agreed upon by the vendor and the purchaser.
21. Failure to supply any requested information, or to submit prices for all items may cause a submission to be considered informal or result in a vendor being declared non-responsible.
22. Vendors shall note there are seven (7) exhibits attached to these specifications. Vendors must complete all of the documents contained in said exhibits and also provide all materials which meet the requirements set forth therein, including but not limited to, a certificate of insurance meeting the Niagara Falls Water Board standard insurance requirements, which must be provided by the successful bidder(s) after award of the bid. Failure to complete and/or provide the materials set forth in the exhibits may result in the submission being rejected.
23. If a vendor is not making a submission, it is important that the vendor answer this offering by completing and mailing back the "Non-Submission Certificate" in this package. Failure to respond to two successive offerings may result in a vendor being removed from the mailing list.
24. For questions regarding specific items or products on this bid, please contact Chief Operator Robert Dunn at (716) 283-9770 x1280. For questions regarding these specifications, please contact Purchasing Agent Douglas Janese at 716-286-4372.

**Price Sheet**

<b>Item Number</b>	<b>Quantity (lbs.)</b>	<b>Manufacturer</b>	<b>Polymer Name/Type/Number</b>	<b>Unit Price Per Pound</b>
1				
2				

# **EXHIBIT A**

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

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

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

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

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

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

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

\_\_\_\_\_  
ADDRESS

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

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

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

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

\_\_\_\_\_  
DATE

# **EXHIBIT B**

**NON-SUBMISSION CERTIFICATE**



## **NON-SUBMISSION CERTIFICATE**

### **Instructions**

1. Place an X on the appropriate line(s) below.
2. Complete and return ONLY this page of the package.
3. Make sure to place your submission number on your envelope and return it to the Purchasing Division

NOTE: It is required that you indicate your reason for not making a submission.

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

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

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

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

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

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

REASON FOR NOT MAKING A SUBMISSION:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

# **EXHIBIT C**

**NFWB STANDARD TERMS, CONDITIONS  
AND REQUIREMENTS**

## **NFWB STANDARD TERMS, CONDITIONS, AND REQUIREMENTS**

Except as otherwise may be agreed to in writing, the following standard terms, conditions, and requirements shall form a part of any contract between the Niagara Falls Water Board and a bidder/proposer:

### **1. Insurance**

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

1. Workers Compensation as required by Law (submit Form C-105.2);
2. Disability Benefits as required by Law (submit Form DB-120.1);
3. Employer's Liability with a minimum limit of \$100,000;
4. Commercial General Liability insurance: Bodily, Personal Injury, and Property Damage Liability limits each of at least \$1,000,000 per occurrence/\$2,000,000 aggregate, which shall include the following coverages:
  - a. Owner's Protective Liability
  - b. Premises – Operations
  - c. Broad Form Contractual
  - d. Independent Contractor and Sub-Contractor
  - e. Products and Completed Operations
5. Automobile Liability: \$1,000,000 single limit; and
6. Umbrella/Excess Liability: A minimum of \$5,000,000 on a per occurrence and aggregate basis; this shall be in excess of primary general, automobile and employer's liability limits.
7. Professional Liability/Errors and Omissions: \$2,000,000 (identified as a claim made or an occurrence policy) (required only if professional services are to be performed pursuant to the contract).

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

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

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

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

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

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

## **3. Independent Contractor**

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

## **4. Successors and Assigns**

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

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

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

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

## **6. General Conditions of Bid/Solicitation**

The issuance of this solicitation does not commit the Water Board to award a contract or to pay any costs incurred by bidders/proposers in the preparation of their bids/proposals. In addition, the Water Board reserves the right to accept bids by items, or as a whole, or to reject any or all bids or waive informalities.

## **7. Bid/Proposal Firm and Irrevocable for 90 Days**

A signed bid or proposal shall be considered a firm offer on the part of the bidder/proposer for a period of 90 days.

# **EXHIBIT D**

**PROHIBITED BUSINESS PRACTICES AND  
LOBBYING LAW POLICY**

## **PROHIBITED BUSINESS PRACTICES AND LOBBYING LAW POLICY**

1. **Iran Divestment Act.** By submitting a bid in connection with this solicitation or by assuming the responsibility of a contract awarded hereunder, bidder certifies in accordance with State Finance Law §165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerors pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>. Bidder further certifies that it will not utilize in connection this contract any subcontractor that is identified on the Prohibited Entities List.
2. **International Boycott Prohibition.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, that by submitting a bid or by assuming the responsibility of a contract awarded hereunder, bidder agrees, as a material condition, that neither the bidder nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If bidder, or any of the aforesaid affiliates of bidder, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the bidder’s execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The bidder shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR 105.4).
3. **MacBride Fair Employment Principles.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), by submitting a bid or by assuming the responsibility of a contract awarded hereunder the bidder hereby stipulates that the bidder either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.
4. **Prohibition on Purchase of Tropical Hardwoods.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as

detailed in §165 State Finance Law. Any such use must meet with the approval of the State, otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

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

6. **Restricted Period for Communications with Water Board and Lobbying Law.** Bidders are advised that, from the date the Notice to Bidders is issued until the award of the contract, no contact by bidders or their agents with the Water Board or Water Board personnel related to this solicitation is permitted, except as shall be authorized by the authorized Water Board contact indicated on the Notice to Bidders.

Pursuant to State Finance Law Sections 139-j and 139-k, this solicitation includes and imposes certain restrictions on communication between respondents and the Water Board during the procurement process. A respondent is restricted from making contacts from the date the Notice to Bidders is issued through the final contract award by Water Board (the "Restricted Period"). During the Restricted Period, respondents may only contact the designated contact regarding this solicitation. The designated contact is identified on the Notice to Bidders. Respondents are responsible for complying with State Finance Law Sections 139-j and 139-k. Directors, officers and employees of the Water Board are required to record certain information when contacted during the Restricted Period. A review of whether such contacts were permissible contacts will be considered in connection with any determination of responsibility of the respondent. Failure of any respondent to timely certify or to disclose accurate and complete information or the submission of any intentionally false or intentionally incomplete certification may result in the rejection of the contract award or if such contract has been executed, then the immediate termination of the contract. Violations may result in debarment of the respondent from proposing on or obtaining governmental procurement contracts in the State of New York.



Bidders are required to complete and return with their proposal the Water Board's New York State Finance Law Sections 139-j and 139-k ("Lobbying Law") – Disclosure Statement, which is a part of the contract documents.

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

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

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

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

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

On the \_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_ as a representative of \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the entity on behalf of which the individual acted executed the instrument.

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Notary Public

# **EXHIBIT E**

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

## New York State Finance Law Sections 139-j and 139-k ("Lobbying Law") — Disclosure Statement

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

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

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

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

**Instructions** New York State Finance Law §139-k(2) obligates the NFWB to obtain specific information regarding prior non-responsibility determinations. This information must be collected in addition to the information that is separately obtained pursuant to New York State Finance Law §163(9). In accordance with New York State Finance Law §139-k, an offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any governmental entity due to: (a) a violation of New York State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a governmental entity.

As part of its responsibility determination, New York State Finance Law §139-k(3) mandates consideration of whether an offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no procurement contract shall be awarded to any offerer that fails to timely disclose accurate or complete information under this section, unless the factual elements of the limited waiver provision can be satisfied on the written record.

### Disclosure of Prior Non-Responsibility Determinations

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

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

**Name and Title of Person Submitting this Form:** \_\_\_\_\_

Has any governmental entity<sup>1</sup> made a finding of non-responsibility regarding the Bidder/Proposer in the previous four years? ☐ Yes ☐ No

If yes: Was the basis for the finding of the Bidder's/Proposer's non-responsibility due to a violation of State Finance Law §139-j? ☐ Yes ☐ No

<sup>1</sup> A "governmental entity" is: (1) any department, board, bureau, commission, division, office, council, committee or officer of New York State, whether permanent or temporary; (2) each house of the New York State Legislature; (3) the unified court system; (4) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law; (5) any public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as a member by virtue of holding a civil office of the state; (6) a municipal agency, as that term is defined in paragraph (ii) of subdivision(s) of section one-c of the Legislative Law; or (7) a subsidiary or affiliate of such a public authority. (SFL §139-j, paragraph 1.a.)



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**New York State Finance Law Sections 139-j and 139-k ("Lobbying Law") — Disclosure Statement**

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

Yes  
☐

No  
☐

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

Governmental Entity: \_\_\_\_\_ Year of Finding of Non-responsibility: \_\_\_\_\_

Basis of Finding of Non-Responsibility: \_\_\_\_\_

\_\_\_\_\_

(Add additional pages as necessary)

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

Yes  
☐

No  
☐

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

Governmental Entity: \_\_\_\_\_ Date of Termination: \_\_\_\_\_

Basis for Termination: \_\_\_\_\_

\_\_\_\_\_

(Add additional pages as necessary)

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**Bidder's/Proposer's Affirmation and Certification**

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By signing below, the Bidder/Proposer:

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

By: \_\_\_\_\_ Date: \_\_\_\_\_

(Signature of Person Certifying)

Print Name and Title: \_\_\_\_\_ Title: \_\_\_\_\_

Bidder/Proposer or Contractor/Consultant (Full Legal Name): \_\_\_\_\_

Address of Bidder/Proposer or Contractor/Consultant: \_\_\_\_\_

\_\_\_\_\_

**NFWB's Right  
to Terminate**

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

# **EXHIBIT F**

**CERTIFICATE OF NON-COLLUSION**

### **CERTIFICATE OF NON-COLLUSION**

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

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

- (1) The prices in this bid/proposal have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder/proposer or with any competitor;
- (2) Unless otherwise required by law, the prices which have been quoted in this bid/proposer have not been knowingly disclosed by the bidder/proposer and will not knowingly be disclosed by the bidder/proposer prior to opening, directly or indirectly, to any other bidder/proposer or to any competitor; and,
- (3) No attempt has been made or will be made by the bidder/proposer to induce any other person, partnership, or corporation to submit or not to submit a bid/proposal for the purpose of restricting competition.

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

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

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

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

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

On the \_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_ as a representative of \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the entity on behalf of which the individual acted executed the instrument.

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

# **EXHIBIT G**

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

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.

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Notary Public