
EXHIBITS

EXHIBIT A

**AGREEMENT TO ASSUME THE RISKS ASSOCIATED WITH ENTRY UPON
PROPERTY, RELEASE, HOLD HARMLESS AND INDEMNIFICATION**

**Agreement to Assume the Risks Associated with Entry Upon
Property, Release, Hold Harmless and Indemnification**

IN CONSIDERATION of being granted permission to enter onto premises located at 225 Old Falls Street, Niagara Falls, New York, including but not limited to any lands immediately adjacent to said premises (“Premises”), I, for myself, my personal representatives, heirs and next of kin:

1. ACKNOWLEDGE, agree and represent that I understand that said Premises may contain certain conditions that pose a risk to the safety of anyone thereon, including the risk of serious bodily injury, including permanent disability, paralysis and death (“Risks”).
2. HEREBY ASSUME full and complete responsibility for any Risks associated with the condition of said Premises, and that by executing this Agreement and entering on said Premises, I fully accept and assume all such Risks and responsibilities for losses, costs and damages I may incur as a result of my entry onto said Premises.
3. HEREBY RELEASE, discharge and covenant not to sue the owner of the Premises, Anwal Properties Partnership, and USA Niagara Development Corporation, Empire State Development and the State of New York (the “State Entities”) from any liability claims, demands, losses or damages on my account caused or alleged to be caused in whole or in part by said Owner and State Entities.
4. HEREBY AGREE that if, despite this assumption of Risks and release of liability, I or anyone on my behalf makes a claim of any sort as herein described, except as specifically excluded above, I will indemnify, save and hold harmless each and all said Owner and State Entities from any litigation expenses, attorney fees, loss, liability, damage or cost which may be incurred as the result of any such claim.
5. HEREBY AGREE that if any part or portion of this Agreement is deemed to be void, such a finding shall not invalidate the remainder hereof, which shall remain in full force and effect.

Signed: _____ Date: _____

Print Name: _____

Witness: _____

EXHIBIT B

**INFORMATION FORM REGARDING QUALIFICATIONS & FINANCIAL CAPABILITIES
SIGNED & NOTARIZED PROPOSER CERTIFICATION**

This form may be reproduced.

Name of Respondent:

Address of Respondent:

Telephone Number of Respondent:

Name of Authorized Representative:

Address of Authorized Representative

Telephone Number of Authorized Representative:

Redevelopment Opportunity – Request for Proposal

1. If the Respondent is not an individual doing business in his or her own name, describe the Respondent’s organization (whether a corporation, partnership or business association) and indicate the jurisdiction under whose laws the organization is organized and operated.

2. Attach an organizational chart for the Respondent’s firm/team indicating the names and responsibilities of key personnel.

3. Provide the identification of, and current, and, if existing, certified public account-prepared or audited, financial statements for the Respondent and all relevant principals, shareholders, partners, or co-ventures of the Respondent, the nature and the extent of each participant's interest in the Respondent and the proposed proposal and any other information which will enable USAN to assess the Respondent’s financial capability should also be provided.

Redevelopment Opportunity – Request for Proposal

4. Indicate the names, addresses and phone numbers of law firm(s) that will represent the Respondent in connection with the ultimate proposal and the Development Agreement.

Name of Law Firm:

Address:

Telephone:

5. Indicate the names, addresses, and telephone numbers of accounting firm(s) representing the Respondent in connection with the ultimate proposal and Development Agreement.

Name of Accounting Firm:

Address:

Telephone:

6. Indicate the names, addresses, and telephone numbers of at least three (3) commercial or institutional credit references.

Name of Reference 1:

Address:

Telephone:

Name of Reference 2:

Address:

Telephone:

Name of Reference 3:

Address:

Telephone:

7. Identify any affiliation or relationship between the Respondent and any other development company, parent company, lending institution, or other entity that the Respondent believes will enable the USAN to assess the Respondent’s financial capability.

CERTIFICATION

The undersigned: recognizes that all information and material provided on or with this Information Regarding Qualifications and Financial Capability form and all other information and material submitted by the undersigned in connection with its Statement of Interest and/or Proposal are submitted for the express purpose of inducing the City of Niagara Falls (“the City”), USA Niagara Development Corporation (“USAN”), a subsidiary of New York State Urban Development Corporation d/b/a Empire State Development Corporation (“ESDC”), a corporate governmental agency of the State of New York (the “State”), constituting a political subdivision and public benefit corporation, to award a contract to the undersigned; acknowledges that each of the City, USAN, ESDC, the State and the State’s agencies and instrumentalities may, each in its sole and absolute discretion, by any means which it may choose, determine the truth and accuracy of all statements made therein; acknowledges that intentional submission of false or misleading information may constitute a felony under Penal Law §210.40 or a misdemeanor under Penal Law §210.35 or §210.45, and may also be punishable by a fine of up to \$10,000 or imprisonment of up to five years under 18 U.S.C. §1001; and states that the information submitted is true, accurate and complete.

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

- (1) The prices, amounts and material in this proposal have been arrived at independently, without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices, amounts and materials with any other Respondent or with any competitor;
- (2) Unless otherwise required by law, the prices, amounts and material that have been quoted in this statement of interest or subsequent proposal have not been/will not be knowingly disclosed by the Respondent and will not knowingly be disclosed by the Respondent prior to award, directly or indirectly, to any other Respondent or to any competitor, and

Redevelopment Opportunity – Request for Proposal

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

The Respondent hereby authorizes the City, USAN, ESDC, the State and their agents and instrumentalities to contact the Respondent's bank(s) and credit references and any other persons identified in its submission, including without limiting the foregoing, all persons and entities identified in its Information Regarding Qualifications and Financial Capability form and any financial information, in connection with the proposal, and any and all other persons identified in any investigation conducted by or on behalf of the City, USAN, ESDC, or the State, and obtain release of pertinent financial and other information, as well as to obtain verification of information provided by or on behalf of the Respondent.

Name of Respondent

Signature of Officer

Title

Sworn to before me this
_____ day of _____, 2010.

Notary Public

EXHIBIT C

STATE FINANCE LAW SECTION 139-J AND –K REQUIRED FORMS

- **Governmental Entity Record of Contact Under State Finance Law §139-k(4)**
- **Model Language to Obtain Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law § 139-j(3) and § 139-j(6) (b)**
- **Offerer Disclosure of Prior Non-Responsibility Determinations**

Revised January 2007

**Model Form for Governmental Entity Report of Contact
under State Finance Law § 139-k(4)**

Background:

New York State Finance Law § 139-k(4) obligates every Governmental Entity to make a written record of any Contacts made during the pendency of a procurement. The term “Contact” refers to those oral, written or electronic communications that a reasonable person would infer are attempts to influence the Governmental Procurement. In addition to obtaining the required identifying information, the Governmental Entity must inquire and record whether the person or organization that made the Contact was the Offerer or was retained, employed or designated on behalf of the Offerer to appear before or Contact the Governmental Entity.

Instructions:

This model form is for use by the Governmental Entity and may be used for each Procurement Contract governed by State Finance Law § 139-k. All recorded Contacts shall be included in the procurement record for the Procurement Contract. This model form was designed to collect information about initial and subsequent Contacts on the specified procurement contact during the Restricted Period. However, a separate form must be completed for **each** person or organization that Contacts the Governmental Entity about each Procurement Contract. Additional information and guidance on the “restricted period” and permissible Contacts can be found in the guidelines issued by the Advisory Council on Procurement Lobbying, which can be found on the OGS website at <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>.

It is recommended that Governmental Entities advise Offerers and those designated, employed or retained by Offerers of the intention to record the Contact. It is also recommended that information be provided regarding to Offerers and others about the statutory Restricted Period, Designated Contacts and the Permitted Contacts.

While the model form includes a section where the nature of the Contact may be recorded, such information is not statutorily required to be reported. Where such information is recorded, the Governmental Entity may in its discretion conform its collection with its other procurement practices.

Governmental Entity Record of Contact
Under State Finance Law § 139-k(4)

Was the person making the Contact informed that the Contact would be documented?
 Yes No

To: Procurement Record Regarding _____

Procurement Contract Number _____

From: _____
(Name and title)

Name of Governmental Entity: _____

Date: _____

Subject: Record of Contact under State Finance Law § 139-k(4)

I had Contact with the below named individual regarding the above identified procurement. The term "Contact" is defined in State Finance Law § 139-k(1)(c). It reasonably appears that this contact was an attempt to influence the procurement process. In accordance with State Finance Law § 139-k(4), the following information was obtained:

Name: _____

Address: _____

Telephone Number: _____

Place of Principal Employment: _____

Occupation: _____

Is the above named person or organization the "Offerer" in this governmental procurement?
(Please circle) yes no

If no, was the above named person or organization retained, employed or designated by the "Offerer" to:

- appear before the governmental entity about the governmental procurement?
(Please circle) yes no

- Contact the governmental entity about the governmental procurement?
(Please circle) yes no

List date(s) of Contact: _____

(add additional pages as necessary)

Optional

Summarize the form (e.g., email, letter, conversation) and topic of the communication on each date of Contact: _____

(add additional pages or copies of written communications as necessary)

Model Language to Obtain Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law § 139-j (3) and § 139-j (6) (b)

Background:

State Finance Law § 139-j(6)(b) provides that:

Every Governmental Entity shall seek written affirmations from all Offerers as to the Offerer’s understanding of and agreement to comply with the Governmental Entity’s procedures relating to permissible contacts during a Governmental Procurement pursuant to subdivision three of this section.

Instructions:

A Governmental Entity must obtain the required affirmation of understanding and agreement to comply with procedures on procurement lobbying restrictions regarding permissible Contacts in the restricted period for a procurement contract in accordance with State Finance Law § § 139-j and 139-k. It is recommended that this affirmation be obtained as early as possible in the procurement process, such as when the Offerer submits its proposal or bid. The following language can be used to obtain the affirmation.

Offerer affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible Contacts as required by State Finance Law § 139-j (3) and § 139-j (6) (b).

By: _____ Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

Model Language to Obtain the Offerer Disclosure of Prior Non-Responsibility Determinations

Background:

Under New York State Finance Law § 139-k(2), covered governmental entities are obligated 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 State Finance Law § 163(9). In accordance with 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 a Governmental Entity due to: (a) a violation of State Finance Law § 139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms “Offerer” and “Governmental Entity” are defined in State Finance Law § 139-k(1). State Finance Law § 139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law § 139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such Contact does not fall within one of the exemptions).

As part of its responsibility determination, a covered governmental entity must consider whether an Offerer fails to timely disclose accurate or complete information regarding the above nonresponsibility 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 a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe.

Instructions:

A Governmental Entity must include a disclosure request regarding prior non-responsibility determinations in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract.

Offerer Disclosure of Prior Non-Responsibility Determinations

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

Address: _____

Name and Title of Person Submitting this Form: _____

Contract Procurement Number: _____

Date: _____

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years?

(Please circle): No Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law § 139-j?

(Please circle) No Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity?

(Please circle) No Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Date of Finding of Non-Responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle)

 No Yes

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

Offerer certifies that all information provided to the Governmental Entity with respect to State Finance Law § 139-k is complete, true and accurate.

By: _____ Date: _____
Signature

Name: _____

Title: _____

EXHIBIT D

ESDC POLICY REGARDING PERMISSIBLE CONTACTS UNDER SFL 139

As of January, 2007

**Policy Regarding Permissible Contacts
under State Finance Law Section 139-j and 139-k**

with respect to procurements by

**New York State Urban Development Corporation d/b/a Empire State
Development Corporation**
and its subsidiaries

1. Definitions

The following terms shall have the following meanings:

- a. “contact” or “contacts” shall mean any oral, written or electronic communication with the Corporation under circumstances from which a reasonable person would infer that the communication was intended to influence a procurement by the Corporation.
- b. “Corporation” shall mean ESDC or any of its subsidiaries, as the case may be.
- c. “ESDC” shall mean the New York State Urban Development Corporation d/b/a Empire State Development Corporation.
- d. “offerer” shall mean the individual or entity, or any employee, agent or consultant or person acting on behalf of such individual or entity, that makes a contact during the restricted period.
- e. “procurement” shall mean (i) the preparation of terms of the specifications, bid documents, request for proposals, or evaluation criteria for a procurement contract; (ii) solicitation for a procurement contract; (iii) evaluation of a procurement contract; (iv) award, approval, denial or disapproval of a procurement contract, or (v) approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved), renewal or extension of a procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the offerer.
- f. “procurement contract” shall mean any contract or other agreement for a commodity, service, technology, public work, construction, the grant of a franchise or concession, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property which contract or other agreement involves an estimated annualized expenditure in excess of fifteen thousand dollars. Grants, eminent domain transactions and other transactions listed in subdivision (1)(g) of Section 139-j of the State Finance Law shall not be deemed procurement contracts.
- g. “restricted period” shall mean the period of time commencing with the earliest written notice or advertisement of the availability of the solicitation document for a procurement contract and concluding with the execution of a final procurement contract.

2. Permissible Contacts during the Restricted Period

- a. With respect to each procurement that it conducts, the Corporation shall designate a person or persons who may be contacted by offerers relative to the procurement. All comments and questions from offerers regarding a procurement should generally be in writing and must be addressed only to the contact person(s) identified in the solicitation document or otherwise identified to offerers.
- b. During the restricted period, offerers shall only communicate, with respect to any procurement, in the manner and with the individuals set forth in Section 2 (a) of this Policy.
- c. Notwithstanding Section 2(b) of this Policy, offerers may:
 - i. submit proposals in response to a solicitation document;
 - ii. submit written questions as may be provided for in the solicitation document;
 - iii. participate in any pre-bid conference or site visit as may be provided for in the solicitation document;
 - iv. make a complaint in writing to the general counsel of the Corporation if a communication by an offerer made in accordance with Section 2(a) of this policy has not been responded to in a timely manner;
 - v. after being notified of a tentative award of a procurement contract, engage in communications solely for the purpose of negotiating the terms of the final contract or contracts and any interim agreements in advance of the final contract or contract, including any conditional designation document;
 - vi. request the review of an award of a procurement contract;
 - vii. participate in protests, appeals or other review proceedings (including the apparent successful respondent and its representatives) seeking a final administrative or judicial determination;
 - viii. make a complaint to the attorney general, inspector general, district attorney or court of competent jurisdiction regarding alleged improper conduct with respect to the procurement; and
 - ix. communicate with a member of the New York State legislature or legislative staff about the procurement.
- d. Offerers shall not attempt to influence the conduct of, and award of a contract under, the procurement in a manner that would result in a violation or an attempted violation of Section 73(5) (regarding certain gifts) and Section 74 (code of ethics) of the Public Officers Law.
- e. As early as practicable during the restricted period, the Corporation shall seek a written affirmation from each offerer as to its understanding of and agreement to comply with State Finance Law Section 139-j and this Policy regarding permissible contacts during the restricted period. Each respondent to a solicitation who has not submitted such an affirmation prior to submitting a proposal, must submit such a written affirmation with its proposal.

3. Recording of Contacts

Upon receiving any contact during the restricted period, Corporation staff shall make a record of such contact, including the name, address, telephone number, place of principal employment and occupation of the person or organization making the contact and whether the person or organization making the contact was the potential respondent itself or was retained, employed or designated by or on behalf of the potential respondent.

4. Violations of Requirements Regarding Permissible Contacts

- a. Any member, officer or employee of the Corporation who becomes aware that an offerer has violated the provisions of State Finance Law 139-j(3) or Section 2 of this Policy regarding permissible contacts during the restricted period shall immediately notify the General Counsel of the Corporation of the impermissible contact and shall provide the Corporation's General Counsel with a copy of the record of contact.
- b. If any member, officer or employee of a governmental entity other than the Corporation becomes aware that violation regarding permissible contacts with respect to a procurement has occurred involving such other governmental entity, then such member, officer or employee shall make a record of such impermissible contact and shall immediately notify the ethics officer, inspector general, if any, or other official of the other governmental entity responsible for investigating such matters, who shall in turn notify the Corporation's General Counsel and provide the General Counsel with a copy of the record of contact.
- c. Upon receiving notice of an impermissible contact with respect to a procurement, the Corporation's General Counsel will conduct an investigation to determine whether an impermissible contact occurred and, if so, whether such impermissible contact was knowing and willful. The investigation shall include review of the record of contact and may include an interview of the individual making the report and other involved staff. The investigation may include review of such other documents or the interview of such other individuals as the General Counsel in his or her discretion may consider appropriate.
- d. The Corporation's General Counsel shall endeavor to make a determination, within ten business days of receiving any notice of impermissible contact, whether sufficient cause exists to believe that the impermissible contact occurred and that such contact was knowing and willful, but in any event shall make such determination before the award of a final procurement contract or contracts. In the event it is determined that sufficient cause exists to believe that the impermissible contact occurred and was knowing and willful, then the General Counsel shall notify the involved offerer of the date and nature of the alleged impermissible contact and of the preliminary determination that such contact was knowing and willful.
- e. The offerer shall be provided with an opportunity to submit a written response to the alleged impermissible contact within ten business days of receiving such notice. In the General Counsel's discretion, an interview with the offerer may be granted or required. In making a final determination regarding an allegation of impermissible contact, the General Counsel shall take into consideration any information provided by the offerer during the course of the investigation.
- f. In the event the General Counsel makes a final determination that an offerer has knowingly and willfully violated this policy or Section 139-j of the State Finance Law and such violation involved misconduct by a Corporation employee in the implementation of this policy, then the General Counsel shall report such instance of employee misconduct to the Corporation's President.
- g. The notice provided for in Section 4(d) above may be sent by facsimile transmission or electronic mail provided that hard copy of such notice is also sent by overnight, personal or other method of delivery providing a delivery receipt, to the offerer at the address listed on

the report of contact, in the offerer's proposal or such other address as the General Counsel may deem most appropriate.

- h. Prior to awarding any procurement contract, the Corporation shall make a determination of responsibility with respect to the proposed awardee. In making a determination of responsibility with respect to any offerer, the Corporation shall consider the proposed awardee's ability to perform the services provided for in the proposed contract including but not limited to such factors as the offerer's financial capability; level of relevant expertise; depth and qualifications of staff; if applicable, the offerer's prior performance under contracts with ESDC or any subsidiary of ESDC or other instrumentality of the State of New York; and any prior findings of non-responsibility with respect to such offerer (by any governmental entity, as defined in section (1)(a) of State Finance Law Section 139-j) made within the preceding four years.
- i. Notwithstanding any of the criteria set forth in section 4(g) above, either of the following shall result in a determination of non-responsibility with respect to any offerer: (I) a final determination, pursuant to the procedure set forth in this section 4, that such offerer has knowing and willfully violated the provisions of this policy or State Finance Law Section 139-j, and (II) the failure by such offerer to timely disclose accurate and complete information or otherwise cooperate with the Corporation in administering this policy and the provisions of State Finance Law Section 139-j.
- j. In the event an offerer is determined to be non-responsible, such offerer and its subsidiaries and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders shall not be awarded any contract pursuant to the procurement unless, by action of the Board of Directors, the Corporation finds that the award is necessary to protect public property or public health or safety and that the offerer is the only source capable of performing the contract. Any such action by the Corporation's Board of Directors shall state the basis for the finding of necessity and a record of the action and the basis shall be included in the procurement record.
- k. Any subsequent determination of non-responsibility due to a violation of State Finance Law Section 139-j within four years of a determination of non-responsibility due to such a violation shall result in the offerer's being rendered ineligible to submit a proposal on or be awarded any procurement contract for any governmental entity subject to the provisions of State Finance Law Section 139-j for a period of four years from the date of the second determination of non-responsibility.
- l. Upon making any determination of non-responsibility or ineligibility under this Section 4, the Corporation shall notify the New York State Office of General Services so that the offerer that is the subject of such determination will be included in the list of all offerers who have been determined to be non-responsible or ineligible, which list is published on the Office of General Services' website and is publicly available.

5. Required Contractual Provisions

Each procurement contract awarded by the Corporation shall contain (a) a certification by the offerer that all information provided to the Corporation with respect to State Finance Law Section 139-j is true, complete and accurate; and (b) a provision authorizing the Corporation to terminate the contract in the event such certification is found to be intentionally false or intentionally incomplete.

6. Procurement Record

- a. The Corporation shall maintain a procurement record with respect to the procurement and the ultimate award of contracts thereunder. The procurement record shall contain such documents as evidence the material decisions made and approach taken in the procurement process, including, without limitation, the following:
 - i. a full copy of the solicitation document(s) and all addenda thereto;
 - ii. a copy of all questions and answers made available to offerers;
 - iii. copies of all proposals submitted in response to the solicitation;
 - iv. all records of contacts, Offerer Disclosure of Prior Non-Responsibility Determinations and Offerer Affirmation of Understanding of and Agreement pursuant to State Finance Law Section 139-j made or submitted in accordance with said Section of the State Finance Law;
 - v. all complaints to the General Counsel made pursuant to this policy; all records of the General Counsel with respect to any investigation into any allegation of a knowing and willful violation of the provisions of this policy and the State Finance Law Section 139-j regarding permissible contacts and all determinations made pursuant to such investigation;
 - vi. all determinations of responsibility or non-responsibility and other documentation of evaluations by or on behalf of the Corporation of responses to the solicitation;
 - vii. a statement describing the basis for any action taken to terminate the procurement contract because of a false, incomplete or inaccurate certification of compliance with or other violation of State Finance Law Section 139-j.
- b. All documents comprising the procurement record shall be subject to disclosure in accordance with the provisions of the Freedom of Information Law and any other applicable law.

7. Miscellaneous

- a. Complaints or other notices to the General Counsel of the Corporation regarding the implementation of this policy shall identify the solicitation with respect to which the complaint or notice is being submitted; the entity conducting the procurement at issue; and the nature of the complaint or notice, and should be submitted to the General Counsel of ESDC at the following address, for further forwarding, if necessary:

General Counsel
Empire State Development Corporation
633 Third Avenue
New York, NY 10017

- b. This policy is adopted pursuant Sections 139-j and 139-k of the State Finance Law. Nothing in this policy shall be construed as limiting the application of this law. In the event of a conflict between the provisions of this policy and the provisions of State Finance Law Sections 139-j and 139-k, the provisions of said Law shall govern.

EXHIBIT E

NON-DISCRIMINATION & AFFIRMATIVE ACTION FORMS

→ **Schedule A-1 – Contractors Staffing Plan**

→ **Schedule A-2 – Schedule of Minority/Women Owned Business Participation**

SCHEDULE A-1

STAFFING PLAN

Project/RFP Title _____ Location of Contract _____

County _____

Zip _____

Contractor/Firm Name _____ Address _____

City _____ State _____ Zip _____

Check applicable categories: (1) Staff Estimates include: () Contract/Project Staff () Total Workforce

() Subcontractors

(2) Type of Contract: () Construction Consultants () Commodities

() Services/Consultants

TOTAL ANTICIPATED WORK FORCE											Total Percent Minority Employees	Total Percent Female Employees	
Federal Occupational Category	Total Number of Employees		Black (Not of Hispanic Origin)		Hispanic		Asian or Pacific Islander		Native American Alaskan Native				
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female			
Officials/Admin.													
Professionals													
Technicians													
Sales Workers													
Office & Clerical													
Craft Workers													
Operatives													
Laborers													
Service Workers													
TOTALS													

CERTIFICATION:

I, _____ (Print Name), the _____ (Title), do certify that (i) I have read this Staffing Plan and (ii) to the best of my knowledge, information and belief the information herein is complete and accurate.

Signature _____ Date _____ Telephone Number _____

Forward to:

Empire State Development
 Affirmative Action Unit - Laverne Poole
 633 Third Avenue
 New York, NY 10017

Office: (212) 803-3224

Fax: (212) 803-3223

CONTRACTORS STAFFING PLAN
Instructions for Completion

PURPOSE:

The Contractors Staffing Plan is prepared by all contractors providing good, products and merchandise, or services (skilled and non-skilled) or professional consulting services (inclusive of professional construction consultant services) to a state agency. The plan is required prior to the award of a contract and contains the anticipated staff assignments during the contract. **In instances where that cannot be identified, the contractor may identify the total work force of the company.** The form will be reviewed by state agencies for the purposes of equal employment opportunity requirements.

GENERAL INFORMATION:

1. **Project/RFP Title:** describe the project for which you are competing as indicated on the RFP/RFB document.
2. **Location of Contract:** the company's location and postal zip code.
3. **Contractor/Firm Name:** the company that will be providing the workforce. Include *address* with city name, state and zip code.
4. **Check applicable categories:**
(1) *Staff Estimated include: Contract/Project Staff* (check in cases where the workers to be assigned can be determined, **Total Work Force** (check in the event the contract work force cannot yet be determined, **Subcontractors** (check if the work force for the project is that of a subcontractor).
(2) *Type of Contract: Construction Consultants, Commodities, Services/Consultants* (check appropriate box).

TOTAL ANTICIPATED WORK FORCE:

1. **Federal Occupational Category:** The contractor's work force is broken down and reported by the nine Federal Occupational Categories (FOC's) consistent with the Federal government's EEO-1 categories for the private sector labor force. The categories are general in nature, and include all related occupational job titles. The contracting agency can provide assistance in categorizing specific jobs.
2. **Total Number of Employees:** Record the total number of all persons employed in each FOC regardless of ethnicity (either to be assigned to the contract/project staff OR in the company's total work force, as indicated by the categories selected in number 4 (1) Staff Estimated, of the General Information. Report the number of male employees in column (1), and the total number of female employees in column (2) for each FOC. In columns (3) through (10), report the number of male and female *minority* group member, based on the following defined groups:

Black (not of Hispanic origin): all persons having origins in any of the Black African racial groups.

Hispanic: all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American or either Indian or Hispanic origin, regardless of race.

Asian or Pacific Islander: all persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

Native American or Alaskan Native: all persons having origins in any of the original peoples of North America.

TOTAL PERCENT MINORITY:

Add all minority group members (male and female) columns (3) through (10), divide by the total numbers of all employees in that FOC (columns 1 + 2). Post the percentage result for that FOC. [Total number of minority employees (columns 3 through 10) / Total number of employees (columns 1 and 2)].

TOTAL PERCENT FEMALE:

Divide the number of female employees (column 2) in the FOC, by the total number of both Male and Female (column 1 + 2). Post the percentage result for that FOC. [Total female employees (column 2) / total number of employees (columns 1 and 2)].

TOTALS:

To compute the column totals, add vertically. *Total Percent Minority Employees and Total Percent Female Employees* should be calculated as shown above, using the summed column totals.

The Contractors Staffing Plan is to be completed by the prime contractor and signed and dated by an authorized representative before submission. The *Company Official's Name, Title, Telephone Number, Signature and Date* signed should be provided where indicated on the form.

SCHEDULE A-2

SCHEDULE OF MINORITY/WOMEN OWNED BUSINESS PARTICIPATION

(No substitutions may be made on this submission except by prior written approval from empire State development)

Project: _____

Service: _____

Name of Respondent

Respondent's Contract Amount:

Address

Telephone Number: ____ () _____:

Name/Address/Phone No. of Monority/Women-owned Business	MBE or WBE	Joint Venture, Subcontractor or Supplier	Scope of Work to be Performed	Proposed Contract Price or Purchase Amount & Percentage

CERTIFICATION:

I, _____ (Print Name), the _____ (Title), do certify that (i) I have read this Staffing Plan and (ii) to the best of my knowledge, information and belief the information herein is complete and accurate.

Signature _____ Date _____ Telephone Number ____ () _____

Forward to:

Empire State Development
Affirmative Action Unit - Laverne Poole
633 Third Avenue
New York, NY 10017

Office: (212) 803-3224

Fax: (212) 803-3223