

Request for Proposals:

“Consultant Services for Site Re-Use Feasibility Analysis”



*Carriage House Plant
196 Newton St.
Fredonia, NY 14063*



*Carriage House Plant
26 E. Talcott Street
Dunkirk, NY 14048*

RFP RELEASE DATE:	August 4, 2014
RFP DEADLINE:	September 2, 2014
DEADLINE FOR QUESTIONS:	August 15, 2014
RESPONSES TO QUESTIONS:	August 20, 2014

**Empire State Development
625 Broadway
Albany, NY 12245**

I. Overview

- A. Contract Title:** Consultant Services: ConAgra Plant Re-Use Feasibility Analysis
- B. Description:** Empire State Development (ESD) is seeking proposals from qualified site location consulting firms (Consultant) to complete a site re-use feasibility analysis (the Study) that will assess existing site and building conditions to help determine the re-use feasibility of the sites by different industries and company types, with the goal of informing a property marketing strategy to be supported by ConAgra Foods (“the Company”), ESD and local economic development stakeholders. This Study will include a thorough assessment of existing buildings, infrastructure, and equipment, as well as a high-level analysis of the site’s context.
- C. Background Information:** On March 18, 2014, the Company announced that it will cease operations and close its Carriage House plants in Dunkirk and Fredonia by February 2015. The plant closures will affect 435 current employees at the two facilities. The closures will occur by department and the operations in each department will either be discontinued or moved to one of the Company’s other facilities throughout the United States, which “will allow the company to operate more effectively and efficiently,” said Daniel Hare, a spokesman for the Company.

Currently, the Dunkirk and Fredonia plants produce private-label condiments and sauces, including salad dressings, a variety of beverage mixes and syrups, and grape pulp and juice. Many local farmers, manufacturers, and service providers supply raw materials (e.g., grapes), packaging (e.g., plastic bottles, boxes) and other goods and services to the Company’s operations in Dunkirk and Fredonia and will be negatively affected by these closings. Both plants offer rail access and are British Retail Consortium (BRC) QA.

The Fredonia plant is approximately 40 acres in size. It features approximately 305,000 square feet of main plant and receiving operations and a shipping warehouse of approximately 127,000 square feet. It includes 11 production lines producing multiple categories of food products utilizing both hot and cold fill processes. It also features seasonal grape juice production.

The Dunkirk plant is approximately 11 acres in size. It features 243,000 sq. ft. of main plant operations, 34,000 sq. ft. of shipping operations, 32,000 sq. ft. of cold storage, and a 15,000 sq. ft. tank room, 19 dock doors and 4 rail sidings. It formerly produced pourable dressings, mayonnaise, syrups and other products, including also seasonal grape juice processing.

D. Location of Facilities to be Evaluated:

Dunkirk ConAgra / Carriage House Plant 26, E Talcott Street Dunkirk, NY 14048
Fredonia ConAgra / Carriage House Plant, 196 Newton St. Fredonia, NY 14063

E. Qualifications: Characteristics of the ideal Consultant, individual or firm, include background in one or more of the following:

- Experience with site selection, location consulting for industrial facilities, particularly those used by the food and agriculture industries;
- Experience evaluating and analyzing the market for the economic re-use prospects of former industrial facilities, particularly those formerly used by the food and agriculture industries;

II. Scope of Work

The Scope of Services necessary to complete this Study shall include, but are not limited to the following:

A. Background Review: Consultant will review sufficient background information so as to understand the impact of the site’s overall context and surrounding economy on its attractiveness for potential re-uses. Some background material on these topics will be provided to the Consultant directly by ESD and the Company. Categories of information that the Consultant may deem necessary to review might include information on:

- Local Workforce (Education, Employment, Skill levels)
- Community Resources
- Site Context (Access, Traffic, Development Constraints)
- Building and Equipment Inventory
- Economic Impact of Closures on Economy and Region
- Environmental Condition
- Other Information

Other information expected to be made available by the Company, to the extent that it is available, will include:

- **Building and Site Information:**
 - Map of for-sale parcels, including acreages
 - Floor plans (including floor area ratios and floor heights/elevations)
 - Description of key building features relevant for site re-users, including:
 - Materials used in building interior and exterior (floors, ceilings, surfaces, roofs)

- Manufacturing systems and support structures (drainage, ventilation. Etc.)
 - Waste removal and disposal systems
 - Loading areas and number of loading docks
 - Energy efficiency features or building retrofits
- **Utility Information:**
 - Water supply
 - Electricity
 - AC/Heating systems
 - Lighting
 - Backup Generators
 - Other
- **Equipment Information:**
 - Partial list of equipment expected to remain, including: use history, model #, year, and condition
 - Partial list of equipment expected to be auctioned by ConAgra, but with the possibility of purchase by site buyer

B. Site Tours: Consultant will have access to tour Site facilities as necessary to assess physical conditions of Site, buildings and equipment.

C. Report: Consultant will prepare written report of the findings (the Report) to ESD. The Report will include, but is not limited to, the following:

- a) Evaluation for potential re-use of sites based upon the evaluation of existing conditions, including but not limited to:
 - (1) Identify at least 10 specifically recommended industry and company types
 - (2) Prioritize recommended industry and company types
 - (3) Recommend any investments in or improvements to the property that would enhance its value to target types or increase the number of potential targets.
 - (4) Identify marketing strategies for each industry and company type
 - (5) Evaluate the potential of recommended industry and company types to re-hire affected workforce and/or mitigate impact on local suppliers.
 - (6) Evaluate the potential economic impact of recommended industry and company types.
- b) Evaluation of the impact of existing local economic conditions on Site re-use prospects, including a brief review of the local labor force, local suppliers and other economic conditions and resources.
- c) Evaluation of the following existing conditions: 1) existing building conditions; 2) legacy machinery and equipment; 3) site infrastructure including, electric, gas, roads, water, sewer, fiber etc.

III. Required Proposal Contents

In evaluating the capabilities of the Respondent, ESD may utilize any and all information available (including information not provided by the Respondent). Proposals should clearly and concisely state the unique capabilities, experience, and advantages of the Respondent, and demonstrate the Respondent's capability to satisfy the requirements and objectives set forth in this RFP. ESD further reserves the right to ask additional written or oral clarification questions to all Respondents or to a subset of Respondents.

It is anticipated that the total length of the Proposal will be less than than twenty pages.

Please letter and number your responses exactly as the questions are presented herein, submitting the following information:

- 1. Executive Summary, Experience, and Key Personnel**
 - a. Cover Letter summarizing key points of the proposal
 - b. Contact information for the team leader on this engagement including the name, address, phone and fax numbers, and email address.
 - c. Staffing proposal, including:
 - i. Identification of individuals who will be responsible for leading and staffing the Study;
 - ii. Names and titles of all team members;
 - iii. Professional licensing information (as applicable); and
 - iv. Resumes.
- 2. Summary of Relevant Project Experience**
- 3. Proposed Technical Approach and Methodology**
 - a. The Proposal shall include a description of the Consultant's approach to the Scope of Services. The Proposal shall briefly describe a proposed technical approach for each element and sub-element of the Scope of Services.
- 4. Timeline**
 - a. The Proposal shall include a timeline ("the Timeline") for completion of all tasks. The Timeline shall detail each analysis component and provide opportunities for ESD to review preliminary findings prior to final submission of the Study.
 - i. Note: It is anticipated that the overall Timeline will be approximately six weeks or less.
- 5. Fees and Costs**
 - a. The fee proposal shall be provided as a lump sum with costs broken out for:
 - i. Costs associated with the individual tasks indentified in the Timeline, including reimbursable expenses associated with each set of tasks.
 - ii. The hours estimated to be spent by each person assigned to the Project.
 - b. For any additional services, please provide hourly rates for all proposed personnel.

6. Required Procurement Forms (noted below)

IV. Selection Criteria

The selection of the successful proposal will be based on a determination of “best value” by an evaluation of the following factors:

- Anticipated cost of services
- Demonstrated capacity to perform the work (i.e., relevant experience)
- Proposed methodology for executing the assignment

V. Insurance Requirements

The selected consultant must show evidence of the following insurance requirements (*at a minimum and to the extent applicable*):

- Commercial General Liability insurance - \$1 million per occurrence and \$2 million aggregate;
- Auto Liability insurance - \$1 million per occurrence and \$1 million aggregate;
- Evidence of Worker’s Compensation & Employer’s Liability insurance at State statutory limits;
- Evidence of Disability insurance coverage at State statutory limits;
- Employer’s Liability of \$500,000 minimum; and
- Professional Liability Insurance of \$1 million minimum (preferably \$5 million)
- The NYS Urban Development Corporation d/b/a Empire State Development must be named as additional insureds on a primary and non-contributory basis on all of the following policies: Commercial General Liability & Auto Liability.
All policies listed above should include a waiver of subrogation in favor of NYS UDC d/b/a ESD.

VI. Procurement Forms and Requirements

Additional requirements for this RFP are described below. Relevant forms, where required to be submitted, must be executed and included in the submission in the same order as listed below:

1. State Finance Law §§139-j and 139-k forms
2. New York State Vendor Responsibility Questionnaire For-Profit Business Entity
3. Iran Divestment Act Statement
4. Encouraging the Use of NYS Businesses in Contract Performance Form

5. Certification Under State Tax Law Section 5-a
6. Schedule A (for review only—no separate form requirement)
7. Project Sunlight (for review only—no separate form requirement)

1. State Finance Law Sections 139-j and 139-k forms

State Finance Law Sections 139-j and 139-k (collectively, the “Procurement Requirements”) apply to this RFP. These Procurement Requirements: (1) govern permissible communications between potential respondents and ESD or other involved governmental entities with respect to this RFP; (2) provide for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this RFP. Compliance with the Procurement Requirements requires that all communications regarding this RFP, from the time of its issuance through final award and execution of any resulting contract (the “Restricted Period”), be conducted only with the designated contact persons listed below; the completion by Respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the ESDC web site under “RFPs/RFQs”); and periodic updating of such forms during the term of any contract resulting from this RFP.

Respondents must submit the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding and Agreement pursuant to State Finance Law as part of their submittal. Copies of these forms are available at:

http://www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf.

The Procurement Requirements also require ESD staff to obtain and report certain information when contacted by prospective respondents during the Restricted Period, make a determination of the responsibility of Respondents and make all such information publicly available in accordance with applicable law. If a prospective respondent is found to have knowingly and willfully violated the State Finance Law provisions, that prospective respondent and its subsidiaries, related or successor entities will be determined to be a non-responsible Respondent and will not be awarded any contract issued pursuant to this solicitation. In addition, two such findings of non-responsibility within a four-year period can result in debarment from obtaining any New York State governmental procurement contract. The designated contact account for this solicitation is khansen@esd.ny.gov.

This is not a complete presentation of the provisions of the Procurement Requirements. A copy of State Finance Law Sections 139-j and 139-k can be found at:

<http://esd.ny.gov/CorporateInformation/RFPs.html>

(under “ESDC Policy Regarding Permissible Contacts under SFL 139”).

All potential Respondents are solely responsible for full compliance with the Procurement Requirements. Both the prime consultant and any sub-consultants complete the forms required above.

2. Vendor Responsibility

All Respondents to this RFP must be “responsible,” which in this context means that they must have the requisite financial ability, organizational capacity and legal authority to carry out its obligations under this RFP, and in addition must demonstrate that both the Respondent and its principals have and will maintain the level of integrity needed to contract with New York State entities such as ESD. Further, the Respondent must show satisfactory performance of all prior government contracts. Accordingly, the contract to be entered into between ESD and the Designated Developer, if any, shall include clauses providing that the Designated Developer remain “responsible” throughout the term of the contract, that ESD may suspend the contract if information is discovered that calls into question the responsibility of the contracting party, and that ESD may terminate the contract based on a determination that the contracting party is non-responsible. On request, model language to this effect will be provided to any Respondent to this RFP.

To assist in the determination of responsibility, ESD requires that all respondents to this RFP register in the State's Vendor Responsibility System (“VendRep System”). The VendRep System allows business entities to enter and maintain their Vendor Responsibility Questionnaire information in a secure, centralized database. New York State Procurement Law requires that state agencies award contracts only to responsible vendors. Respondents are to file the required Vendor Responsibility Questionnaire online via the VendRep System or may choose to complete and submit a paper questionnaire. Please include a copy of your VendRep submission receipt with your proposal. If you submit a paper questionnaire please submit it using certified mail and provide a copy of the return receipt.

To enroll in and use the VendRep System, see the System Instructions available at www.osc.state.ny.us/vendrep or go directly to the VendRep system online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the Office of the State Comptroller’s Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us.

Respondents opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website http://www.osc.state.ny.us/vendrep/forms_vendor.htm and execute accordingly pertaining to the company’s trade industry. Per the website, respondents are to “Select the questionnaire which best matches the business type (either For-Profit or Not-For-Profit) and business activity (Construction or Other).” For ESD RFPs concerning the purchase and redevelopment of real estate, it is most common for a Respondent to complete the form as a “Non-Construction” company. Unless the Respondent is primarily a Construction firm, the Respondent should thus fill out the Vendor Responsibility Questionnaire as a “Non-Construction” entity, either as a For-Profit or Not-For-Profit entity, depending on the Respondent organization type.

3. Iran Divestment Act

Every Proposal made to ESD pursuant to a competitive solicitation must contain the following statement, signed by the Respondent on company letterhead and affirmed as true under penalty of perjury:

"By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law."

The list in question is maintained by the Office of General Services. No Response that fails to certify compliance with this requirement may be accepted as responsive.

4. Encouraging the Use of NYS Businesses in Contract Performance Form

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this ESD contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. In order for ESD to assess the use of New York State businesses in each Proposal, ESD requests that each Respondent complete the Encouraging Use of New York State Businesses in Contract Performance form, included in the Appendix.

5. Certification Under State Tax Law Section 5-a

Any contract resulting from this solicitation is also subject to the requirements of State Tax Law Section 5-a ("STL 5-a"). STL 5-a prohibits ESD from approving any such contract with any entity if that entity or any of its affiliates, subcontractors or affiliates of any subcontractor makes sales within New York State of tangible personal property or taxable services having a value over \$300,000 and is not registered for sales and compensating use tax purposes. **To comply with STL 5-a, all Respondents to this solicitation must include in their Proposals a properly completed Form ST-220-CA, or an affidavit that the Respondent is not required to be registered with the State Department of Taxation and Finance. A copy of the ST-220-CA form and affidavit is accessible at the Required Forms for Vendors link at the ESD web site: labeled "Schedule A- Conditions Applicable to the Corporation's Agreements for Materials and Services (includes ST220 and all other required forms) at <http://esd.ny.gov/CorporateInformation/RFPs.html>**

Also in accordance with the requirements of STL 5-a, any contract resulting from this solicitation will require periodic updating of the certifications contained in Form ST-220-CA. Solicitation responses that do not include a properly completed ST-220-CA will be considered incomplete and non-responsive and will not be considered for contract award. Only the prime consultant completes Form ST 220-CA, but Schedule A to Form ST 220-CA requires detailed information from the sub-consultants, such as tax ID number, etc., if

applicable. Moreover, if applicable, certificates of authority must be attached by the prime consultant and all the sub-consultants.

6. Schedule A

Following final selection of a Designated Developer, ESD will prepare a contract defining all project terms and conditions and the Designated Developer's responsibilities in conformance with "Schedule A," which can be found at:

http://esd.ny.gov/CorporateInformation/Data/ScheduleA_ConditionsApplicabletoCorporationAgreementsForMaterialServices_RevisedMay2014.pdf

Please note Respondents do not need to complete the entire Schedule A with the submission of their Proposal. However, Respondents should still review these terms, which are standard in all ESD contracts, and raise any concerns present prior to submission of their Proposal, as the Designated Developer will need to accept these terms prior to contract execution.

7. Project Sunlight

This procurement is subject to the Public Integrity Reform Act of 2011. Under the Public Integrity Reform Act of 2011, "appearances" (broadly defined and including any substantive interaction that is meant to have an impact on the decision-making process of a state entity) before a public benefit corporation such as ESD by a person (also broadly defined) for the purposes of procuring a state contract for real property (as contemplated in this RFP) must be reported by ESD to a database maintained by the State Office of General Services that is available to members of the public. If in doubt as to the applicability of Project Sunlight, Respondents and their advisors should consult the Laws of 2011, Ch. 399 for guidance.

VII. Non-Discrimination and Contractor & Supplier Diversity

It is the policy of the State of New York and Empire State Development (ESD) to comply with all federal, State and local laws, policies, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and to take affirmative action in working with contracting parties to ensure that Minority and Women-owned Business Enterprises (MWBEs), Minority Group Members and Women share in the economic opportunities generated by ESD's participation in projects or initiatives, and/or the use of ESD funds. MWBE firms currently certified by New York State's Department of Economic Development are encouraged to respond to this RFP.

ESD's Non-Discrimination and Contractor & Supplier Diversity policy will apply to this initiative. The Respondent shall be required to solicit and utilize MWBEs for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8, see attached exhibit OCSD-4) to achieve an **overall MWBE Participation Goal of 23%** related to the total value of ESD's funding.

For purposes of providing meaningful participation by MWBEs on the project and achieving the project goals established herein, Respondent should reference the directory of New York State Certified MWBEs found at the following internet address:

<https://ny.newnycontracts.com/>

General inquiries or questions relating to aforementioned policies, MWBE participation and the goals specified herein may be addressed to the Office of Contractor and Supplier Diversity at OCSD@ESD.NY.GOV.

VIII. Other Terms and Conditions

The selected consultant will be paid on a time and material basis in accordance with Schedule A - Conditions Applicable to the Corporation's Agreements for Materials/Services for an amount not to exceed the proposed lump sum fee. All terms and conditions contained in Schedule A will be incorporated and made a part of the contract with the selected contractor. Schedule A can be found at:

http://www.esd.ny.gov/CorporateInformation/Data/ScheduleA_ConditionsApplicabletoCorporationAgreementsForMaterialServices_RevisedMay2014.pdf.

IX. Submission of Proposal

Each Respondent must submit three hard copies of the Proposal and one digital copy of the Proposal (on flash drive or compact disk) no later than 2:00 PM on Tuesday, September 2, to EACH of the following locations (i.e., six hard copies and two digital copies in total):

Empire State Development
625 Broadway
Albany, NY 12245
Attn: Jeff Janiszewski, SVP for Strategic Business Development
ConAgra Plant Assessment RFP

Empire State Development
633 Third Ave.
37th Floor
New York, NY 10017
Attn: Kevin Hansen, Director of Real Estate Development
ConAgra Plant Assessment RFP

X. Questions

All questions should only be made via email with the specific **SUBJECT HEADING: "CONAGRA PLANT ASSESSMENT RFP QUESTION"** to: khansen@esd.ny.gov no later than 11:59 PM on August 15, 2014.

XI. Statement of Limitations

1. This RFP, submissions from Respondents to this RFP, and any relationship between ESD and Respondents arising from or connected or related to this RFP, are subject to the specific limitations and representations expressed below, as well as the terms contained elsewhere in this RFP. By responding to this RFP, Respondents are deemed to accept and agree to this Statement of Limitations. By submitting a response to this RFP, the entity acknowledges and accepts ESD's rights as set forth in the RFP, including this Statement of Limitations.
2. The issuance of this RFP and the submission of a response by any firm or the acceptance of such response by ESD does not obligate ESD in any manner whatsoever. Legal obligations will only arise upon execution of a formal contract by ESD and the firm(s) selected by ESD.

ESD reserves the right: (i) to amend, modify, or withdraw this RFP; (ii) to revise any requirements of this RFP; (iii) to require supplemental statements or information from any responding party; (iv) to accept or reject any or all responses thereto; (v) to extend the deadline for submission of responses thereto; (vi) to negotiate or hold discussions with any respondent and to correct deficient responses which do not completely conform to the instructions contained herein; and (vii) to cancel, in whole or part, this RFP, for any reason or for no reason. ESD may exercise the foregoing rights at any time without notice and without liability to any Respondent or any other party for its expenses incurred in the preparation of responses hereto or otherwise. Responses hereto will be prepared at the sole cost and expense of each Respondent.

3. All information submitted in response to this RFP is subject to the Freedom of Information Law (FOIL), which generally mandates the disclosure of documents in the possession of ESD upon the request of any person, unless the content of the document falls under a specific exemption to disclosure. If any Respondent wishes to claim that any information submitted in its response to this RFP constitutes a Trade Secret or is otherwise exempt from disclosure under FOIL, such claim must be made at the time of the response, and must be in writing supported by relevant and material arguments.
4. ESD reserves the right, in its sole discretion, without liability, to utilize any or all of the RFP responses, including late responses, in its planning efforts. ESD reserves the right to retain and use all the materials and information, and the ideas, suggestions therein, submitted in response to this RFP (collectively, the "Response Information"), and each Respondent must grant an unconditional and perpetual license without charge to ESD to use any copyright or other legally protected rights in and to the Response Information.
5. This RFP shall not be construed in any manner to implement any of the actions contemplated herein, nor to serve as the basis for any claim whatsoever for reimbursement of costs for efforts expended in preparing a response to the RFP. ESD will not be responsible for any costs incurred by Respondents related to preparing and submitting a response to this RFP, attending oral presentations, or for any other associated costs.
6. To the best of ESD's knowledge, the information provided herein is accurate. Respondents should undertake appropriate investigation in preparation of responses.

Attachment A: ENCOURAGING USE OF NYS BUSINESSES IN CONTRACT PERFORMANCE

Vendor Name and Date: _____

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State (“NYS”), bidders/proposers for this ESD contract for commodities, services or technology are strongly encouraged and expected to consider NYS businesses in the fulfillment of the requirements of the contract. Such partnering may be as sub-contractors, suppliers, protégés or other supporting roles (herein collectively called “Subcontractors”).

Bidders/proposers need to be aware that, if selected through this ESD solicitation, they will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive NYS Subcontractors in performing the contract, including without limitation: (i) purchasing commodities; and (ii) utilizing services and technology. Further, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York’s infrastructure, and maximize economic activity to the mutual benefit of the contractor and its NYS business partners. NYS businesses will promote the contractor’s optimal performance under the contract, thereby benefiting public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State’s economic engine through promotion of the use of New York businesses by its contractors. The State therefore encourages bidders/proposers to provide maximum assistance to NYS businesses in their use of the contract. The potential participation by all kinds of NYS businesses will deliver great value to the State and its taxpayers.

Bidders/proposers can demonstrate their commitment to the use of NYS businesses by responding to the questions below (negative responses will not adversely affect contract selection):

(A) Do you anticipate the need for Subcontractors fulfilling the requirements of this ESD contract? Yes No

(B) Do you anticipate that NYS businesses will be used in the performance of this ESD contract as Subcontractors? Yes No

NOTE: If the answer to question (B) is Yes, please identify NYS businesses that will be used and attach identifying information such as name, address, contact information, nature of business. Please also be prepared to provide ESD on a regular basis (at least quarterly) with the amounts paid to NY businesses.

Attachment B: Signed Checklist

Empire State Development Request for Proposals Checklist

I _____, a principal of the firm _____ certify that the following information has been submitted as part of the response to this Request for Proposals.

Submitted all required information with respect to the Proposal, including but not limited to: a cover letter summarizing the key points of the proposal; team contact information; a summary of relevant project experience; a proposed technical approach and methodology; a project timeline; and proposed fees and costs. (Section III)

Completed and submitted State Finance Law Sections 139-j and 139-k forms (Section VI)

Completed and submitted ST-220-CA Form or affidavit (Section VI)

Copy of VendRep receipt (Section VI)

Completed and submitted Iran Divestment Act Statement (Section VI)

Completed and submitted Use of NYS Business Form (Section VI)

Completed an Equal Employment Opportunity Policy Statement OCSD-1 form and M/WBE Utilization Plan OCSD-4 form (Section VII)

Submitted a digital copy of the Proposal to both locations, as well as three hard copies, as specified in the RFP. (Section IX)

Note: Incomplete responses may not be considered by Empire State Development

Signed: _____

Name:

Date:

I, _____ (CONTRACTOR/GRANT REPRESENTATIVE),

the _____ (AWARDEE/CONTRACTOR)

agree to adopt the following policies with respect to the project being developed or services rendered at

_____.

MWBE PARTICIPATION (MWBE)

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from ESD’s Office of Contractor and Supplier Diversity (“OCSD”) and solicit bids from the listed vendors directly. OCSD may be reached via email at OCSD@ESD.NY.GOV.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

EQUAL EMPLOYMENT OPPORTUNITY POLICY (EEO)

- (a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.
- (b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization’s obligations herein.
- (c) At the request of the ESD, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age,

disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization’s obligations herein.

- (d) Organization shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The organization and its sub-vendors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
- (e) The organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with this contract.

Agreed on this _____ day of _____ 20_____.

By: _____
(SIGNATURE)

Print Name: _____

Title: _____

Minority & Women Business Enterprise-Equal Employment Opportunity Liaison

_____ (name of designated contractor/grantee liaison) is designated as the Minority and Women Business Enterprise Liaison responsible for administering the Minority and Women-Owned Business Enterprises-Equal Employment Opportunity (M/WBE-EEO) program.

M/WBE Contract Goals

Unspecified % Minority Business Enterprise Participation

Unspecified % Women’s Business Enterprise Participation

EEO Contract Goals

NOT APPLICABLE % Minority Labor Force Participation

NOT APPLICABLE % Female Labor Force Participation

23% TOTAL/OVERALL M/WBE Participation Goal

(Signature of Contractor’s Authorized Representative)

*Name: _____

*Title: _____

*Phone: _____

*Fax: _____

*Address: _____

INSTRUCTIONS: This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This MWBE Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (M/WBE) under the contract. Attach additional sheets if necessary.

Federal Employer Identification No. (FEIN):
Contractor/Awardee:
Address:
Awardee Representative:
Town, State & Zip:
Phone:
ESD Contract/Project Number:
Fax:
RFP/RFQ/Solicitation Number:
Email:
M/WBE Goals: MBE - % WBE - %

1. Certified M/WBE Subcontractors/Suppliers Federal Employer Identification Number (FEIN), Name, Address, Phone, Fax and Email Address.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	5. Dollar Value of Subcontracts / Supplies / Services and intended performance dates of each component of the contract.
A.	<u>NYS ESD CERTIFIED</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
B.	<u>NYS ESD CERTIFIED</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE			

6. If unable to fully meet the M/WBE goals set forth in the contract, the Offeror must submit a Waiver Request form, which may be obtained from the

Office of Contractor and Supplier Diversity, at OCSD@ESD.NY.GOV .									
<p>PREPARED BY (Signature): _____ DATE: _____</p> <p>Preparer's Name (Print or Type): _____</p> <p>Preparer's Title: _____</p> <p>Date: _____</p> <p style="margin-top: 20px;">SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">TELEPHONE NO.:</td> <td style="width: 50%; padding: 2px;">EMAIL ADDRESS:</td> </tr> <tr> <td colspan="2" style="text-align: center; padding: 5px;">** FOR OCSD-M/WBE USE ONLY **</td> </tr> <tr> <td style="padding: 2px;">REVIEWED BY:</td> <td style="padding: 2px;">DATE:</td> </tr> <tr> <td colspan="2" style="padding: 5px;"> <p>UTILIZATION PLAN APPROVED? <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____</p> <p>Contract No.: _____</p> <p>Project No. (if applicable): _____</p> <p>Contract Award Date: _____</p> <p>Estimated Date of Completion: _____</p> <p>Amount Obligated Under the Contract: _____</p> <p>Description of Work: _____</p> <p style="margin-top: 10px;">NOTICE OF DEFICIENCY ISSUED? <input type="checkbox"/> YES <input type="checkbox"/> NO Date of Issue: _____</p> <p style="margin-top: 10px;">NOTICE OF ACCEPTANCE ISSUED? <input type="checkbox"/> YES <input type="checkbox"/> NO Date of Issue: _____</p> </td> </tr> </table>	TELEPHONE NO.:	EMAIL ADDRESS:	** FOR OCSD-M/WBE USE ONLY **		REVIEWED BY:	DATE:	<p>UTILIZATION PLAN APPROVED? <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____</p> <p>Contract No.: _____</p> <p>Project No. (if applicable): _____</p> <p>Contract Award Date: _____</p> <p>Estimated Date of Completion: _____</p> <p>Amount Obligated Under the Contract: _____</p> <p>Description of Work: _____</p> <p style="margin-top: 10px;">NOTICE OF DEFICIENCY ISSUED? <input type="checkbox"/> YES <input type="checkbox"/> NO Date of Issue: _____</p> <p style="margin-top: 10px;">NOTICE OF ACCEPTANCE ISSUED? <input type="checkbox"/> YES <input type="checkbox"/> NO Date of Issue: _____</p>	
TELEPHONE NO.:	EMAIL ADDRESS:								
** FOR OCSD-M/WBE USE ONLY **									
REVIEWED BY:	DATE:								
<p>UTILIZATION PLAN APPROVED? <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____</p> <p>Contract No.: _____</p> <p>Project No. (if applicable): _____</p> <p>Contract Award Date: _____</p> <p>Estimated Date of Completion: _____</p> <p>Amount Obligated Under the Contract: _____</p> <p>Description of Work: _____</p> <p style="margin-top: 10px;">NOTICE OF DEFICIENCY ISSUED? <input type="checkbox"/> YES <input type="checkbox"/> NO Date of Issue: _____</p> <p style="margin-top: 10px;">NOTICE OF ACCEPTANCE ISSUED? <input type="checkbox"/> YES <input type="checkbox"/> NO Date of Issue: _____</p>									