



SUNY FREDONIA

INVITATION FOR BID (IFB)

RETRACTABLE FENCING

Softball Field

Exhibit B

IFB # 032121

**Responses Due:
Wednesday, April 21, 2021
2:00 P.M.**

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SUMMARY INFORMATION FORM

THIS PAGE MUST BE SIGNED AND RETURNED WITH BIDDER'S RESPONSE

IFB #: 032121		IFB Title: Softball Retractable Backstop Fencing	IFB Release Date: March 30, 2021
Key Events			
Questions/Requests for clarification due		By 4:00 P.M. on Friday, April 9, 2021	
Response to questions/requests for clarifications issued		By end of day, April 13, 2021	
Pre-Bid Conference (if applicable)		N/A	
Notice of Intent to Bid Due (if applicable)		N/A	
Proposal Due Date and Time		Wednesday, April 21, 2021 2:00 P.M.	
<i>Fredonia reserves the right, in its sole discretion, to modify the above schedule. Bidders will be notified via email of any changes in a timely manner</i>			
Contact Information			
Primary Contact: Soteris Tzitzis University Services SUNY Fredonia 280 Central Ave. Fredonia, NY 14063 Telephone: 716-673-3257 Email: uniserv@fredonia.edu		Secondary Contact:	
Restricted Period			
In accordance with the requirements of New York State Finance Law Sections 139j and 139k ("Lobbying Law"), the restricted period for this procurement is now in effect. Therefore, all communications regarding this procurement must be handled through the State University of New York's designated contacts only.			
Bidder Information			
Legal Business Name of Company Bidding:	Bidder's Federal Tax Identification Number:	Other Contact:	
D/B/A – Doing Business As (if applicable):			
NYS Vendor ID Number:			
Street Address:			
City/State:			
If applicable, place an "x" in the appropriate box: <i>(check all that apply)</i>			
<input type="checkbox"/> Small Business (if checked, provide # of employees _____)		<input type="checkbox"/> Disabled Veteran Owned Business	
<input type="checkbox"/> Minority Owned Business (NYS Certified)		<input type="checkbox"/> Women Owned Business (NYS Certified)	
If you are not bidding, place an "x" in the box and return this page only. <input type="checkbox"/> We are unable to bid at this time because:			
Bidders Signature:		Title:	
Printed Name and E-mail address:	Date:	Zip Code:	

Section 1: OVERVIEW

SUNY Fredonia (herein referred to as "FREDONIA") is part of the State University of New York, the largest public higher education system in the nation. As one of the comprehensive colleges in the system, Fredonia offers undergraduate and graduate education in a broad range of academic fields at the bachelor's, and master's levels. Fredonia enrolls approximately 4,500 students.

The State University of New York ("SUNY") is the largest comprehensive university system in the United States, educating more than 467,000 students in more than 7,500 degree and certificate programs on 64 campuses with nearly 3 million alumni around the globe. SUNY is committed to reduce administrative costs, maximize efficiencies and move resources toward academics and student services.

Section 2: PROJECT SPECIFICATIONS

A. Scope of Equipment

Fredonia is requesting proposals from qualified contractors ("Contractor" or "Bidder") to provide Softball Retractable Backstop Fencing per specifications. It is our intent to award a contract ("Contract" or "Resulting Agreement") to the Bidder that meets qualifications, is deemed responsive and responsible, and has the lowest total cost proposal. **The responsive bidder will be responsible for procuring, delivering and installation of the new retractable backstop fencing.**

B. Mandatory Specifications

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Retractable backstop Fencing.

1.02 REFERENCE STANDARDS

- A. ASTM A53/A53M-20 - Standard Specification for Pipe, Steel, Black and Hot- Dipped, Zinc-Coated, Welded and Seamless.
- B. ASTM C33 - 18 - Standard Specification for Concrete Aggregates.
- C. ASTM C150 -20 - Standard Specification for Portland Cement.

1.03 DEFINITIONS

- A. Information Submittals: Written and graphic information and physical samples that do not require a responsive action. Submittals may be rejected for not complying with the requirements. Information submittals are those submittals indicated in this section as information submittals.
- B. Equivalent Product: Product that is demonstrated and approved through submittal process to have the indicated qualities related to type, function, dimension, in-service performance, physical properties, appearance, and other characteristics that equal or exceed those of specified products.

1.04 SUBMITTALS

- A. Submittal Procedures:
 - 1. Format for Submittals: Submit required submittals in electronic (PDF) file format. Submit electronic submittals via email to the campus.
 - 2. Each submittal shall include the following information:
 - a. Project Name
 - b. Date
 - c. Name of Contractor
 - d. Name of manufacture and supplier
 - e. Other necessary identification
- B. Information Submittals: The Campus will review each submittal and will return it if it does not comply with the requirements.
- C. Product Data: Submit manufacturer's data sheets on each product.
- D. The contractor shall review each submittal and note corrections and dimensions. Mark with approval stamp before submitting to the campus.
- E. The campus will not review the submittals that have not been reviewed by the contractor prior to submitting.
- F. Operation and Maintenance Manuals: Submit to campus concurrent with required submittals.

1.05 ACTION SUBMITTALS

- A. Shop Drawings: Provide drawings of the manufacturer's required installation and foundation requirements. Indicate overall system layout; including but not limited to pole spacing, foundations (size & depth), relationship and proximity to existing adjacent structures & surfaces, heights, types of materials used, fastening and anchorage

details and accessories.

- B. Delegated-Design Submittal: For Retractable Fencing system (foundation, poles, netting, etc.), including analysis data signed and sealed by the qualified professional engineer responsible for their preparation. Design shall include all requirements for wind, material and other environmental loads and conditions specific to the project site.

1.06 DELIVERY, STORAGE, AND HANDLING

- A. Store products in manufacturer's unopened packaging until ready for installation.

PART 2 PRODUCTS

2.01 MANUFACTURERS

- A. Comparable Product Request: Submit request for consideration of each comparable product. Provide a "Sid by Side" comparison identifying product or fabrication or installation method to be replaced.
 - 1. Include data to indicate compliance with the requirements specified.
 - 2. Campus Action: If necessary, the campus will request additional information or documentation for evaluation within one week of receipt of a comparable product request.
- B. Retractable netting (backstop) fencing:
 - 1. Ball Fabrics: www.ballfabrics.com or equivalent.
 - 2. Equivalent Products (Substitutions): See Part 1 General, Section 1.03 Definitions Subsection B Equivalent Products.

2.02 RETRACTABLE NETTING

- A. Product allows the user to raise and lower a barrier netting system during softball field use.
 - 1. Style: Retractable barrier netting system capable of being raised and lowered by one person from the ground.
 - 2. Netting:
 - a. Product: #24 Knotted Nylon Baseball/Softball Netting.
 - b. Fiber: 100% UV Treated Nylon.
 - c. Color: Black.
 - d. Construction: Knotted 1 3/4" Square Mesh.
 - e. Break Test: 210 LBS
 - f. Burst Test: 258 LBS
 - 3. Mounting, Ground: In-ground placement.
 - 4. Support poles spacing: 20'-0" on center or as required by the manufacturer's standard system requirements.
 - 5. Support pole height: 40'-0" minimum.
 - 6. Support pole finish: Hot-dipped galvanized, maintenance-free and weather-resistant.
 - 7. Accessories: Cables, cranks, clips, fasteners, pulley, etc or as required by the manufacturer's standard system requirements. Finish to be minimum hot-dipped galvanized, maintenance free and weather-resistant.
- B. Materials:
 - 1. Pipe: Carbon steel, ASTM A53/A53M-20, Schedule 40, 8" diameter or as required by the manufacturer's standard system requirements.

PART 3 EXECUTION

3.01 EXAMINATION

- A. Examine area where support posts are to be installed for compliance with requirements and other conditions affecting installation.
- B. Notify the campus of any discrepancies discovered in the field prior to installation.
- C. Proceed with installation after unsatisfactory conditions have been corrected.
- D. Comply with manufacturer's written instructions.
- E. Do not install damaged components.
- F. Adjust operable hardware and all moving parts (cranks, cables, pulleys, etc.) to function smoothly; lubricate as recommended by manufacturer.
- G. Verify that all safety devices are properly functioning.
- H. Project to be completed by June 1, 2021

C. Method of Award

This IFB is part of a competitive procurement process designed to serve the best interests of Fredonia, the State University of New York and the People of the State of New York. It is also designed to provide all bidders with a fair and even opportunity to have their services considered. Fredonia will conduct a comprehensive review of each responsive bid submitted in accordance with the terms of this IFB.

Fredonia may cancel this IFB, in whole or in part, at any time before award. This IFB creates no obligation on the part of Fredonia to award or execute a contract. The contract award for this IFB will be made on the basis of lowest cost, responsible

and responsive Bidder, who meets specifications. To be considered responsible and responsive, Bidder must submit a complete proposal that satisfies all requirements stated in the IFB by the due date and time. A proposal which fails to conform to requirements may be considered NON-RESPONSIVE and may be disqualified, In the event two (2) offers are found to be substantially equivalent, Fredonia's procedure for a tie breaker is completed in the following manner:

1. One of the vendors is a New York State certified minority-owned or woman-owned business enterprise (M/WBE).
2. The location of vendor, using the address of the principal place of business
 - (a) Dunkirk/Fredonia New York area
 - (b) Western New York
 - (c) New York State
 - (d) Northeast Region of the United States, as defined by the United State Census Bureau, comprising of nine states: Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.
3. Names drawn from a basket or hat by a Purchasing Designee.

Tentative award of the contract shall consist of written notice of the contract award by Fredonia to the successful bidder, who shall thereupon be obligated to execute a formal quote and/or contract. Any contract awarded shall be executed by the successful vendor and Fredonia, and if applicable, the written approvals of the New York State Attorney General and Office of the New York State Comptroller.

Section 3: PROPOSAL REQUIREMENTS / MANDATORY QUALIFICATIONS

A. Mandatory Qualifications

Bids will be accepted only from established manufacturers and their authorized dealers. Any dealer submitting a bid affirms that it is an authorized dealer of the manufacturer and that the manufacturer has agreed to supply the dealer with all the quantities of products required by the dealer in fulfillment of its obligation under any resultant contracts with the State, and that it will provide a certificate from the manufacturer acknowledging this level of support upon request. If dealer is found to be unauthorized, SUNY reserves the right to reject the bid. Bidder must be capable of processing and shipping large numbers of orders to all participating SUNY campuses. SUNY reserves the right to investigate or make any inquiry into the capabilities of any Bidder to properly perform under any resultant contract.

B. Bidder Information

Bidder must submit the following company information:

1. Full legal name.
2. Primary business address.
3. All other office locations (city and state for domestic; city and country for international)
4. Hours of operation for the offices that will be responsible for providing services to Fredonia, including current holiday schedule.
5. Company website address (URL).

Section 4: PRICING

Bidder must list their bid prices in the attached **Exhibit C – Retractable Fencing Cost Worksheet**.

Any proposals submitted with cost information in a format other than Exhibit C will be rejected as non-responsive.

Section 5: BID SUBMISSION REQUIREMENTS

A. Bid Submission Requirements

1. A Bidder's proposal shall address the Bidder's ability and methodology for providing Fredonia with the requested products/services. To be deemed "responsive" to this IFB, a Bidder must meet all requirements and qualifications and its written proposal must address all points and questions appearing in this IFB. In the event a Bidder's proposal is determined by Fredonia to be "non-responsive," Fredonia is required by its contracting procedures to disqualify the proposal. A disqualified proposal will not be further evaluated or considered for contract award. To facilitate Fredonia's review of proposals, Bidders must address all points and questions that appear in this IFB, and shall do so in the order that they appear. Responses should be labeled to correspond to the numbers/letters of the sections and subsections of this IFB.
2. Prepare a clearly readable proposal that includes all required information.

3. Bidders shall submit all information requested by Fredonia in written form. Proposals must be complete, accurate, and in the form requested. Omissions, inaccuracies or misstatements will be sufficient cause for the rejection of a proposal.
4. Indicate any deviations from the technical specifications and if necessary, attach separate documents and/or explanation.
5. Proposals should be submitted in sealed packages clearly labeled on the exterior with the IFB number and title. Proposals not labeled as instructed risk being opened prior to the bid opening date, which may result in the proposal being rejected. All bids and accompanying documentation shall become the property of Fredonia and shall not be returned.
6. No telephone, facsimile, emailed or otherwise electronically submitted proposals will be accepted.
7. The proposal must be fully and properly executed by an authorized person, and the authorized person's signature must be notarized. By signing, you certify (i) your express authority to sign on behalf of yourself, your company, or other entity; (ii) your full knowledge and acceptance of this IFB, Exhibit A (State University of New York Standard Contract Clauses), Exhibit A-1 (State University of New York Affirmative Action Clauses), State Finance Law §139-j and §139-k (Procurement Lobbying Certification); and (iii) that all information provided is complete, true and accurate. By signing you further affirm that you understand and agree to comply with the procedures on permissible contacts relating to this procurement as required by State Finance Law §139-j (3) and §139-j (6) (b). These procedures may be accessed at: Procurement Lobbying:
<http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>
8. Submit three (3) hard copy of your proposal, the hard copy bearing an original signature and notarized Acknowledgement Form. Send the hard copy to the address provided below. Proposals must be received in the office identified below by the due date and time provided on the Summary Information Form on Page 5 of this IFB. Bidders mailing their proposals must allow sufficient time to ensure receipt by the due date and time. Bidders are cautioned that even when using a trackable mailing/courier/messenger service, proposals must be received by the due date and time. While proposals may be signed for by personnel at Fredonia prior to the due date and time, this does not guarantee that the identified office will receive the proposal by the due date and time.
9. Address for submission of proposal:

Regular Mail: Soteris Tzitzis
SUNY Fredonia
University Services
405 Maytum Hall
280 Central Ave.
Fredonia, New York 14063

Overnight or hand delivery: Soteris Tzitzis
SUNY Fredonia
University Services
405 Maytum Hall
280 Central Ave.
Fredonia, New York 14063

Please note that addresses listed above are different. If you are sending regular mail, please allow enough time for your package to be delivered to the University Services Office as your package will first go to Fredonia's mail room and then will be delivered to the University Services Office. Mark on outside of package: IFB 032121, Softball Retractable Backstop Fencing.

10. Bidders unable or unwilling to submit a proposal are asked to complete the Summary Information Form on Page 5 of this IFB and check the box indicating that no bid is being submitted and the reason why.
11. All prices and Bidder conditions must be included in the original proposal. Prices and Bidder conditions not included in the original proposal will be rejected.
12. Bidders must identify the name and address of all proposed subcontractors and describe the portion of the work that the proposed subcontractors are to perform. Bidders must also provide information that the proposed subcontractors

have the necessary skill, experience and financial resources to provide the services requested in this IFB. Contractor shall have the sole responsibility to Fredonia for the acts or defaults of said subcontractor(s) of such subcontractor's officers, agents and employees, each of whom shall for this purpose, be deemed to be the agent or employee of Contractor to the extent of its subcontract.

13. The submission of a proposal constitutes a non-revocable, binding offer to perform and provide said services. Such binding offer shall be firm and not revocable for a period of one hundred twenty (120) days from bid opening. After one hundred twenty (120) days, the proposal may remain in effect, subject to withdrawal communicated in writing signed by the Bidder. If this IFB is for the sale of goods pursuant to §2-205 of New York State Uniform Commercial Code, the proposal shall be firm, binding and not revocable for a period of ninety (90) days.
14. Bidder is responsible for all costs that it incurs, direct or indirect, related to the preparation and submission of a proposal in response to this IFB.
15. Each copy of the proposal must be accompanied by the following documents:
 - Summary Information Form (page 4 of this IFB), fully completed and signed.
 - Notary Acknowledgement Form (page 22 of this IFB)
 - Attachment 1: Bid Submission Checklist and the documents indicated thereon.
 - Attachment 2: Bidder Qualifications Submission Form, fully completed
 - Attachment 3: Procurement Lobbying Act Certification, completed and signed
 - Attachment 4: Non-Collusive Bidding Certification, completed and signed
 - Attachment 5: Vendor Responsibility Packet
 - Exhibit C: Specifications and Cost Worksheet

B. Bidder Questions

If a Question and Answer period is provided for this solicitation, the schedule will be shown on the Summary Information Form, "Key Events," provided after the Table of Contents of this IFB. All questions must be submitted in writing, citing the particular IFB page, section, and paragraph numbers where applicable. Questions must be EMAILED to arrive no later than 4:00 pm Eastern time on the date indicated and should be directed to the Designated Contacts shown on the Summary Information Form. Questions can be received prior to the closing date. Questions received after the closing date for inquiries will not be answered. Only written answers are official. All Questions and Answers will be issued as addenda to this IFB and will be provided in writing to all potential Bidders.

C. Pre-Bid Proposal Meeting

There will be no pre-bid proposal meeting.

D. Site Visit

There will be no site visit.

E. Bid Opening

Bidders may attend the bid opening, to all who respond that they would like to attend. Bidders must notify the designated contact(s) identified on the Summary Information Form (Page 4 of this IFB) of their desire to attend. Each bidder will be limited to one person due to COVID precautions.

F. Minor Irregularities

Bids that contain minor irregularities, such as those submitted without a proper Bid Security, or in the wrong form, or executed improperly, shall be considered informal. Informal proposals may be considered in selecting a low bidder where the public interest will be promoted thereby.

G. Extraneous Terms

Bids must conform to the terms set forth in this IFB. Extraneous terms or material deviations (including additional,

inconsistent, conflicting or alternative terms) may render the Bid non-responsive and may result in rejection of the Bid. Extraneous term(s) submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Bid or resulting Contract, but shall be deemed included for informational or promotional purposes only. Only those extraneous terms that meet all the following requirements may be considered as having been submitted as part of the Bid:

- a. Each proposed extraneous term (addition, deletion, counter-offer, deviation, or modification) must be specifically enumerated in a writing which is not part of a pre-printed form; and
- b. The writing must identify the particular specification requirement (if any) that Bidder rejects or proposes to modify by inclusion of the extraneous term; and
- c. The Bidder shall enumerate the proposed addition, counter offer, modification or deviation from the Bid Document, and the reasons therefore.

No extraneous term(s), whether or not deemed “material,” shall be incorporated into a Contract or Purchase Order unless submitted in accordance with the above and the Chancellor or her designee expressly accepts each such term(s) in writing. Acceptance and/or processing of the Bid shall not constitute such written acceptance of Extraneous Term(s).

Section 6: GENERAL INFORMATION

A. Fredonia’s Reserved Rights

Fredonia reserves the right to:

- 1. Reject any and all proposals received in response to this IFB.
- 2. Reject any or all portions of any proposal, to negotiate terms and conditions consistent with this IFB and to make an award for any or all remaining portions.
- 3. Withdraw the IFB at any time, at Fredonia’s sole discretion.
- 4. Make an award in whole or in part.
- 5. Disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the IFB.
- 6. Use proposal information obtained through site visits, management interviews and the state’s investigation of a Bidder’s qualifications, experience ability or financial standing, and any material or information submitted by the Bidder in response to Fredonia’s request for clarifying information, in the course of evaluation and/or selection under the IFB.
- 7. Prior to the bid opening, amend the IFB specifications to correct errors of oversights, or to supply additional information, as it becomes available.
- 8. Request certified audited financial statements for the past three (3) completed fiscal years and/or other appropriate supplementation including, but not limited to, interim financial statements and credit reports.
- 9. Request references and contact any or all references.
- 10. Clarify or correct cost or cost figures with the concurrence of the Bidder if mathematical or typographical errors exist.
- 11. Advise the Successful Bidder of an objectionable employee(s) and/or subcontractor(s).
- 12. Waive minor irregularities.
- 13. Waive requirements or amend this IFB upon notification to all Bidders. Mandatory requirements may be eliminated if unmet by all Bidders.
- 14. Negotiate with Bidders responding to this IFB within the requirements necessary to serve the best interests of Fredonia.
- 15. Begin contract negotiations with another Bidder in order to serve the best interests of Fredonia should contract negotiations with the Successful Bidder be unsuccessful within a time frame acceptable to Fredonia.
- 16. Request clarifications from Bidders for purposes of assuring a full understanding of responsiveness, and permit revisions from all potential awardees prior to award.
- 17. Award no contract.
- 18. Change due date of the IFB.

B. Contract Award

Receipt of this IFB does not indicate that Fredonia has predetermined Bidder’s qualifications to receive a contract award. A contract award, if made, shall be based on evaluation of the bid in accordance with the criteria set forth in this IFB. The successful Bidder will be notified by Fredonia by a confirmed letter.

C. Post Award Procedures

1. Debriefing

Bidders who responded to this IFB will be given written notice as to whether their bid was successful or unsuccessful. Upon

being notified of their unsuccessful bid, Bidders may request a debriefing in writing within 15 calendar days of such notice. The 15 day period starts once unsuccessful Bidders are notified. Upon a Bidder's request for a debriefing:

- a. The University will schedule the debriefing within a reasonable time of such request.
- b. The debriefing will be conducted in person with the Bidder, unless the University and the Bidder mutually agree to use another method such as by telephone, video conference or another type of electronic communication.
- c. Bidders' written request must state whether the Bidder will be attending with counsel, to allow the University to arrange for University counsel attendance if so determined.
- d. The debriefings will cover, but not limited to the following:
 - (i) The reason why the bid was unsuccessful.
 - (ii) The quantitative and qualitative analysis that was used by the campus to assess the relative merits of the bid, proposal or offer.
 - (iii) How the selection criteria was applied to the unsuccessful bid.
 - (iv) If the request for debriefing is made prior to contract award, the debriefing shall be limited to review of that Bidder's bid.
 - (v) If the debriefing is held after the final award (which means OSC approval, if applicable) it, may cover the reason for the selection of the winning proposal.
 - (vi) To the extent practicable, general advice and guidance on the ways the Bidder can improve future proposal submission or be more responsive.

2. Contract Award Protest Procedures

Bidders wishing to protest a contract award may do so in accordance with the University's procedures, available at: http://www.suny.edu/sunypp/documents.cfm?doc_id=699.

Section 7: GENERAL TERMS AND CONDITIONS

1. **Free and Open Competition**

Fredonia encourages free and open competition. Whenever possible, terms, specifications, and conditions are designed to accomplish this objective, consistent with the necessity to satisfy Fredonia's needs.

2. **Notification of Errors, Inquiries and Interpretation**

Bidder is responsible to bring to Fredonia's attention any deviations in the technical specifications and to make recommendations for any additional requirements deemed necessary as standard, or for work indicated in the specifications contained in this IFB. If Fredonia in its discretion finds the deviations to be significant so as to require a change in the necessary specifications for the work, Fredonia will notify all Bidders in writing of the change in specifications. No deviations from the technical specifications provided herein shall be made without written approval of Fredonia.

3. **No Claims or Rights**

By submitting a proposal, Bidder agrees that it will not make any claims for, or have any right to damages because of any misinterpretation or misunderstanding of the specifications or because of any misinformation or lack of information.

4. **Conflict of Interest**

Bidder may be requested to provide evidence that the award of a contract will not result in (i) a conflict of interest with regard to other work performed by Bidder; or (ii) a potential conflict of interest among Bidder's staff.

5. **Bidder's Terms and/or Conditions**

Bidder's standard terms and conditions will **not** be considered relevant to its proposal or to the contract awarded and should not be included with its proposal. Any additional Bidder terms and conditions attached to or referenced in Bidder's proposal shall not be considered part of the proposal, but shall be deemed included for informational purposes only. No extraneous terms or conditions will be incorporated into the contract awarded unless approved in writing by Fredonia. Acceptance and/or processing of a Bidder's proposal shall not constitute acceptance of a Bidder's extraneous terms and conditions. **FREDONIA'S CONTRACT WILL BE USED FOR ANY RESULTING AGREEMENT AND WILL BE THE ONLY DOCUMENT USED FOR SERVICES. FREDONIA WILL NOT SIGN ANY STATEMENTS OF WORK FOR SERVICES. IF APPLICABLE, SECTIONS OF BIDDER'S STATEMENT OF WORK MAY BE INCLUDED IN THE RESULTING AGREEMENT IF AGREED UPON BY FREDONIA.**

6. **Acceptance of IFB Content**

The terms and conditions included in this IFB as well as the applicable portions of Bidder's proposal shall become contractual obligations if a contract is awarded. BIDDER'S FAILURE TO ACCEPT THESE TERMS AND CONDITIONS AND OBLIGATIONS SHALL RESULT IN REJECTION OF BIDDER'S PROPOSAL.

7. **Services Outside Scope of the Contract Awarded**

Fredonia shall not be responsible for any services provided by the successful Bidder that are outside the scope of the contract awarded. Fredonia shall not be responsible for any additional costs other than the costs for the services outlined herein, or for any work performed that has not been properly authorized in writing by Fredonia.

8. **Standard Contract Clauses**

Any contract awarded resulting from this IFB shall include Exhibit A (State University of New York Standard Contract Clauses) and, for contracts in excess of \$25,000, Exhibit A-1 (State University of New York Affirmative Action Clauses). The provisions of Exhibit A and Exhibit A-1 shall take precedence over any provision in this IFB or any provisions in the contract awarded. Exhibits A and A-1 are attached to this IFB.

9. **Binding Effect**

The contract awarded shall be binding upon its execution by both parties and, if required by New York State law, upon the written approvals of the Attorney General and the Office of the State Comptroller.

10. **Confidentiality/Freedom of Information Law**

All proposals submitted for Fredonia's consideration will be held in confidence and will become the property of Fredonia. However, the resulting contract is subject to the New York State Freedom of Information Law (FOIL), contained in Article 6 of the New York State Public Officer's Law. Therefore, if a Bidder believes that any information in its proposal constitutes a trade secret, should be treated as confidential and should not be disclosed upon a request pursuant to FOIL, Bidder shall submit with its proposal a separate letter addressed to: *Amy Beers, Internal Control, SUNY Fredonia, 280 Central Ave., Fredonia, NY 14063*, specifically (i) identifying the page number(s), line(s) or other appropriate designation(s) containing such information; (ii) explaining in detail why such information is a trade secret or confidential; and (iii) formally request that such information be held as confidential. Bidder's failure to submit such a letter with its proposal will constitute a waiver by the Bidder of any rights it may have under Section 89(5) of the Public Officers' Law relating to protection of trade secrets. The proprietary nature of the information designated confidential by the Bidder may be subject to disclosure if ordered by a court of competent jurisdiction. A request that an entire proposal be kept confidential is not advisable, because a proposal cannot reasonably consist exclusively of proprietary information.

11. **Minority and Women-owned Business Enterprises (MWBE)**

Pursuant to New York State Executive Law Article 15-A, Fredonia recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises and the employment of minority group members and women in the performance of Fredonia contracts.

For purposes of this solicitation, Fredonia hereby establishes an overall goal of **30%** for MWBE participation, **15%** for Minority-Owned Business Enterprises ("MBE") participation and **15%** for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). For additional information please refer to the MWBE requirements outlined in MWBE Prospective Bidder's Notice ([Form 7557-121](#)).

Please note the response forms identified in Form 7557-121 (SUNY MWBE Forms 104 & 107) shall be submitted with all Bids. Forms are available in SUNY Procurement Policies and Procedures Document 7557 online at: http://www.suny.edu/sunypp/documents.cfm?doc_id=611

The successful Bidder is expected to make a good faith effort to reach the above-stated goals and subcontract identified work to New York State Certified M/WBEs. Successful Bidder will provide Fredonia with a utilization plan (UP), which spells out what M/WBEs will be used, their role in providing services to Fredonia, and the annual dollar value of each contract to show how they will meet the stated goals. If Successful Bidder refuses to provide or fails to provide an acceptable UP, Fredonia reserves the right to go to the next bidder that would provide the "Best Value" to Fredonia that will provide an acceptable UP. The UP must be approved by Fredonia before a contract can be executed. If there are no sub-contracting opportunities, then Tier II suppliers should be looked at by Bidder. Bidder is to factor in costs for any sub-contracted services into their pricing. Fredonia will only pay amounts listed on Bidder's Exhibit C – Price Sheet. You may find NYS Certified M/WBEs at the following website: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>.

12. **Equal Employment Opportunity Requirements**

By submission of a bid or proposal in response to this solicitation, the Bidder agrees with all of the terms and conditions of

SUNY Exhibit A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Bidder further agrees, where applicable, to submit with the bid an EEO staffing plan (utilizing MWBE form 108) to identify the anticipated work force to be utilized on the Contract. Forms are available in SUNY Procurement Policies and Procedures Document 7557 online at: http://www.suny.edu/sunypp/documents.cfm?doc_id=611. If the Bidder is awarded a Contract, Bidder will, upon request, submit to Fredonia, a workforce utilization report identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will 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.

In addition, Bidder shall submit with their bid or proposal their firm's Equal Employment Opportunity Policy Statement (which conforms to the provisions of Exhibit A-1); utilizing (utilizing MWBE Form 104). Forms are available in SUNY Procurement Policies and Procedures Document 7557 online at: http://www.suny.edu/sunypp/documents.cfm?doc_id=611. Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

13. **Encouraging Use of New York State Businesses in Contract Performance**

New York State businesses have a substantial presence in SUNY contracts and strongly contribute to the economies of New York and the nation. In recognition of their economic activity and leadership in doing business in New York State, Bidders/Proposers/Contractors for this 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. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Bidders/Proposers/Contractors need to be aware that to the maximum extent practical and consistent with legal requirements, they are strongly encouraged to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, Bidders/Proposers/Contractors 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 SUNY 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 New York State business partners. New York State businesses will promote the contractor's optimal performance under this contract, thereby fully benefiting the 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. SUNY therefore expects Bidders/Proposers/Contractors to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to New York State and its taxpayers.

Bidders/Proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below:

Will New York State Businesses be used in the performance of this contract? (YES___NO___)

If **YES**, identify New York State Business (es) that will be used. (Attach identifying information, e.g., contact information, dollar value of the subcontract or supply contract.)

14. **Office of Federal Contract Compliance Programs**

This Contractor and Subcontractor shall abide by the requirements of 41 C.F.R. §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

15. **Governing Law**

This IFB, Bidders' proposals and any resulting contract shall be governed, construed and enforced in accordance with the laws of the State of New York, excluding New York's choice of law principles in a New York court of competent jurisdiction. Bidder/Contractor agrees to submit itself to such court's jurisdiction.

16. **Omnibus Procurement Act of 1992**

It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts. Information on the availability of New York State subcontractors and suppliers and a directory of minority and women-owned business enterprises is available from:

NYS Empire State Development
Division for Small Business
625 Broadway
Albany, New York 12207
Phone: 1-800-782-8369
Email: esd@empire.state.ny.us
Website: <https://esd.ny.gov/>

17. **Determination of Vendor Responsibility**

New York State procurement law requires that state agencies award contracts only to responsible contractors. Additionally, the New York State Comptroller must be satisfied that a proposed contractor is responsible before approving a contract award under Section 112 of the State Finance Law. Section 163 of the New York State Finance Law ("SFL") requires that contracts for services and commodities be awarded on the basis of lowest price or best value "to a responsive and responsible bidder." Section 163 (9)f of the SFL requires that prior to making a contract award, each contracting agency shall make a determination of responsibility of the proposed contractor.

In accordance with these procurement laws, Fredonia will conduct an affirmative review of vendor responsibility for all organizations or firms with which it conducts business. In doing so, bidders are required to complete and submit Attachment 8, Vendor Responsibility Questionnaire Packet.

In addition:

- a. *General Responsibility.* The Contractor shall at all times during the contract awarded term remain responsible. The Contractor agrees, if requested by the SUNY Chancellor or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
- b. *Suspension of Work for Non-Responsibility.* The SUNY Chancellor, in his or her sole discretion, reserves the right to suspend any or all activities under the contract awarded, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the SUNY Chancellor or his or her designee issues a written notice authorizing a resumption of performance of the contract awarded.
- c. *Termination for Non-Responsibility.* Upon written notice to the Contractor and a reasonable opportunity to be heard with appropriate SUNY officials or staff, the contract awarded may be terminated by the SUNY Chancellor or his or her designee at the Contractor's expense, where the Contractor is determined by the SUNY Chancellor or his or her designee to be non-responsible. In such event, the SUNY Chancellor or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

18. **Requirements of New York State's Recycling Program**

In accordance with the provisions of Section 165(3) of the State Finance Law and Executive Order No. 142, Fredonia is required to purchase recycled products, if available, made with recycled content in accordance with rules and regulations established by

the State Department of Environmental Conservation in development of that agency's Recycling Emblems Program. If the cost of a recycled product does not exceed by 10% the cost of a product made without recycled content (or by 15% if over 50% of the recycled materials are generated from the New York State waste stream), the recycled product must be purchased.

19. **Electronic Payment Authorization**

Contractor shall provide complete and accurate billing invoices to Fredonia in order to receive payment for its services. Billing invoices submitted to Fredonia must contain all information and supporting documentation required by Fredonia and the Office of State Comptroller (OSC). Payment for invoices submitted by Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Vice Chancellor for Business and Finance of the State University of New York or designee, in her/his sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary New York state procedures and practices. Contractor shall comply with the OSC procedures to authorize payments. Authorization forms are available at the OSC website at www.osc.state.ny.us/epay, by email at epunit@osc.state.ny.us or by telephone at 518-474-4032. Contractor acknowledges that it will not receive payment on any invoices submitted under this contract if it does not comply with the OSC's electronic payment procedures, except where the Vice Chancellor or designee has expressly authorized payment by paper check as set forth above.

20. **Timeliness of Payment and Interest**

Interest for late payment shall be governed by §179g of New York State Finance Law.

21. **Exhibits**

The following documents will be incorporated into, and made part of, the contract awarded:

- a. Exhibit A, State University of New York Standard Contract Clauses
- b. Exhibit A-1, State University of New York Affirmative Action Clauses (for contracts valued at greater than \$25,000)
- c. The Agreement
- d. This Invitation for Bid, including all attachments
- e. Bidder's response

In the event of any inconsistency in or conflict among the document elements described above, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the order set forth above.

22. **Independent Contractor**

The Successful Bidder (Contractor) and its agents or employees or any entity or person acting on behalf of the Contractor engaged in the performance of work shall at all times be deemed to be performing as independent contractors. The Contractor hereby covenants and agrees to act in accordance with that status. The Contractor and its agents or employees or any entity or person acting on behalf of the Contractor shall neither hold themselves out as, nor claim to be, officers or employees of Fredonia and shall make no claim for, nor be entitled to, Workers' Compensation coverage, medical and unemployment benefits, social security, or retirement membership benefits from Fredonia.

23. **Subcontracting**

In the event the Successful Bidder (Contractor) uses partners, subcontracts or subcontractors, the Contractor will remain responsible for compliance with all specifications and performance of all obligations under the contract resulting from this IFB. For the resulting agreement, the successful bidder will be the prime contractor.

Within thirty (30) calendar days after Notice of Award, the Successful Bidder must submit a written statement to Fredonia giving the name and address of all proposed subcontractors. The statement must contain a description of the portion of the work and materials which the proposed subcontractors are to perform and must furnish any other information to document that the proposed subcontractors have the necessary facilities, skill, integrity, past experience and financial resources to perform the work in accordance with the terms and provisions of the contract.

If Fredonia finds that the proposed subcontractors are qualified, it will so notify the Contractor within ten (10) business days following receipt of Contractor's written statement described above. If Fredonia determines that a subcontractor is not qualified, it will so notify the Contractor. The Contractor must, within ten (10) business days thereafter, submit a written statement as described above with respect to other proposed subcontractors, unless the Contractor decides to do such work itself and in Fredonia's opinion is qualified to do such work.

Fredonia's approval of a subcontractor shall not relieve the Contractor of any of its responsibilities, duties and liabilities under the contract. The Contractor shall be solely responsible to Fredonia for the acts, omissions or defaults of such subcontractors and of such subcontractors' officers, agents and employees, each of whom shall, for this purpose, be deemed to be the agent or employee of the Contractor to the extent of its subcontract. No provisions of the awarded contract shall create or be construed as creating any contractual relation between Fredonia and any subcontractor or sub-subcontractor or with any person, firm or

corporation employed by, contracted with or whose services are utilized by the Contractor.

The Contractor shall be fully responsible for the administration, integration, coordination, direction and supervision of all of its subcontractors and of all work. Contractor shall check requirements of the work and coordinate and adjust as required so that conflicts in time, work space, equipment and supplies do not occur in the work being performed by the Contractor with its own employees and the work being performed by its subcontractors.

No subcontractor shall be permitted to work until it has furnished satisfactory evidence to Fredonia of the insurance required by law.

The Successful Bidder (Contractor) shall execute a written agreement with each of its subcontractors and shall require all subcontractors to execute with their sub-subcontractors a written agreement which shall bind each to the terms and provisions of the prime contract awarded, insofar as such terms and provisions are applicable to the work to be performed by such subcontractors. The Contractor shall require all subcontractors and sub-subcontractors to promptly, upon request, file with Fredonia a copy of such agreements upon request, from which the price and terms of payment may be deleted.

24. Compliance

- a. Contractor shall comply with all laws, rules, orders, regulations, and requirements of federal, state and municipal governments applicable hereto, including the provisions of Exhibit A, State University of New York Standard Contract Clauses, attached hereto and made a part hereof, and for agreements with a value of \$25,000 or more Exhibit A-1, State University of New York Affirmative Action Clauses, attached hereto and made a part hereof.
- b. The parties recognize that this Agreement at all times is subject to applicable provision, as may be from time to time amended, of federal, state, and local statutes, rules, and regulations, and policies of the State University of New York Board of Trustees. Any provision of law or regulation or judicial or administrative interpretation of same that invalidates, or otherwise is inconsistent with that the terms of this Agreement that, in the reasonable judgment of either party, would cause one or both parties to be in violation of law or regulation shall be deemed to have suspended the terms of this Agreement; provided, however, that the parties shall exercise their best efforts to accommodate the terms and intent of this Agreement to the greatest extent possible consistent with the requirements of law and regulations.
- c. If either party determines that a term of this Agreement, including the compensation to Contractor, is required to be modified or terminated for purposes of compliance with federal or New York State laws or regulations, or with the policies of the State University of New York Board of Trustees, such party shall promptly notify the other party in writing of the determination, together with sufficient details supporting the determination. Within thirty (30) days of the foregoing notification, the parties shall renegotiate, in good faith, the term(s) required to be modified or terminated to ensure compliance with applicable laws, regulations and policies. If the parties are unable to make a good faith resolution within such thirty (30) day period, either party may terminate this Agreement upon ten (10) days prior written notice to the other party or such earlier date as may be required by law, regulation or policy.
- d. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law §899-aa; State Technology Law § 208). Contractor shall be liable for the costs associated with such breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.
- e. Contractor attests that it has adopted and maintains ethical business practices, consistent with applicable laws and regulations.

25. Indemnification

- a. Successful Bidder (Contractor)
Contractor shall be responsible to and shall defend, indemnify, and hold harmless Fredonia, SUNY, and the State of New York and their respective officers, trustees, directors, employees, and agents for any and all losses, expenses, damages, and liabilities, including reasonable attorney's fees, arising out of the intentional or negligent acts or omissions of Contractor, its officers, employees, agents, or licensees. This provision shall survive the termination of this Agreement. Notwithstanding anything to the contrary contract awarded, the State reserves the right to join in any action, at its sole expense, when it determines there is an issue involving a significant public interest.
- b. Fredonia
Subject to the availability of lawful appropriations pursuant to Section 41 of the New York State Court of Claims Act, Fredonia will hold the Contractor harmless from and indemnify it for any final judgment of a court of competent jurisdiction only to the extent attributable to the negligence of Fredonia or of its officers or employees when acting within the course and scope of their employment and within the scope of the contract awarded.

26. Liability

The Successful Bidder (Contractor) understands and agrees that it is responsible for the performance of the Services in accordance with the terms and conditions of the awarded Contract. Fredonia may look solely to the Contractor for remedy, redress, liability or indemnification for any failure to perform, whether caused by Contractor itself or by one or more of its officers, employees, subcontractors, agents, licensees, licensors or affiliates or any person or entity acting on behalf of Contractor in providing the Services. The Contractor shall be fully liable for the actions of its officers, employees, subcontractors, agents, licensees, licensors, or affiliates or any person or entity acting on its behalf in providing the Services and shall fully indemnify and save harmless Fredonia, SUNY and the State of New York from suits, actions, damages and costs of every name and description presented, brought, or recovered against Fredonia, SUNY and the State of New York for, or on account of any liability which may be incurred by reason of the Contractor's performance of this Agreement.

The Contractor will be responsible for the work, direction and compensation of any person or entity it engages as an officer, expert, employee, consultant, agent, independent contractor, or subcontractor. Nothing in the contract awarded or the performance thereof by the Contractor will impose any liability or duty whatsoever on Fredonia including, but not limited to, any liability for taxes, compensation, commissions, Workers' Compensation, disability benefits, Social Security, or other employee benefits for any person or entity.

27. **Insurance**

During the term of the awarded contract, the Successful Bidder (Contractor) must obtain and maintain insurance coverage at its own expense as provided in this paragraph, and shall deliver Certificates of Insurance in a form satisfactory to Fredonia before commencing any work under this contract. Certificates shall reference the Contract Number. Certificates of Insurance must indicate the applicable deductible/self-insured retention on each policy. Certificates shall be mailed to: **SUNY Fredonia, University Services, 405 Maytum Hall, 280 Central Ave., Fredonia, NY 14063**. They should also reference the contract number.

The policies of insurance set forth below shall be written by companies authorized by the New York Department of Financial Services to issue insurance in the state of New York ("admitted" carriers) with an A.M. Best company rating of "A-" or better. Unless otherwise agreed, policies shall be written so as to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30) days prior written notice except for non-payment as required by law to **SUNY Fredonia, University Services, 405 Maytum Hall, 280 Central Ave., Fredonia, NY 14063**.

All insurance policies shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to Fredonia for any claim arising from the successful bidder's work under the awarded contract, or as a result of the successful bidder's activities. Any other insurance maintained by Fredonia shall be excess of and shall not contribute with the successful bidder's insurance, regardless of any "other insurance" clause contained in any Fredonia policy of insurance.

At least two weeks prior to the expiration of any policy required by the awarded contract, evidence of renewal or replacement of policies of insurance with terms no less favorable to Fredonia than the expiring policies shall be delivered to Fredonia in the manner required for service of Notice under the contract.

- a. A professional liability policy (errors and omissions) with limits in the minimum amounts of one million dollars (\$1,000,000) per claim and three million dollars (\$3,000,000) in the aggregate, which shall be maintained for a period of three (3) years after completion of this contract. If said policy is issued on a claims-made policy form, the policy shall be purchased with extended Discovery Clause coverage of up to three (3) years after work is completed if coverage is cancelled or not renewed.
- b. Workers Compensation and Disability Benefits Coverage for the life of this Agreement for the benefit of employees required to be covered by the New York State Workers Compensation Law and the New York State Disability Benefits Law. Evidence of coverage must be provided on forms specified by the Commissioner of the Workers Compensation Board.
- c. General Liability Insurance with limits no less than one million dollars (\$1,000,000) per claim and three million dollars (\$3,000,000) in the aggregate.
 - 1. Bodily injury and personal injury coverage with limits of \$500,000 for each person in any one accident.
 - 2. Property damage coverage with limits of \$250,000 for each accident.
 - 3. Liability coverage in the amount of \$500,000 for each occurrence, covering a direct loss of property or money

of client caused by dishonest acts of Contractor's agent or employees for which the Contractor is legally liable.

Such policy shall name the State of New York, the State University of New York, and Fredonia as an additional insured's and shall designate the State of New York, the State University of New York and Fredonia as the loss payee, and shall contain a provision that Fredonia shall receive at least thirty (30) days written notice prior to material change, cancellation or expiration of such policy.

- d. Umbrella/Excess Liability Insurance with a limit of not less than five million dollars (\$5,000,000) over and above primary limits of liability, as specified in coverage noted in letter (c.) above.
- e. Comprehensive Business Automobile Liability Insurance with a limit of not less than \$2,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles.
 - 1. Bodily injury liability coverage with limits of \$250,000 each person and \$500,000 for more than one person in any one accident.
 - 2. Property damage coverage with limits of \$250,000 for each accident.

f. Worker's Compensation Insurance and Disability Benefits Requirements

Worker's Compensation Law (WCL) §57 & §220 requires the heads of all municipal and state entities to ensure that businesses applying for permits, licenses or contracts document it has appropriate workers' compensation and disability benefits insurance coverage. These requirements apply to both original contracts and renewals, whether the governmental agency is having the work done or is simply issuing the permit, license or contract. Failure to provide proof of such coverage or a legal exemption will result in a rejection of your bid or renewal.

Proof of Compliance with Workers' Compensation Coverage Requirements:

An ACORD form is NOT acceptable proof of workers' compensation coverage. In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to workers' compensation coverage, a Bidder shall:

- 1. Be legally exempt from obtaining Workers' Compensation insurance coverage; or
- 2. Obtain such coverage from an insurance carrier; or
- 3. Be a Workers' Compensation Board-approved self-insured employer or participate in an authorized self-insurance plan.

A Bidder seeking to enter into a contract with the State of New York shall provide one of the following forms to Fredonia at the time of bid submission or shortly after the opening of bids:

- 1. Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain out of State Entities that New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is NOT required, which is available on the Workers' Compensation Board's website (<http://www.wcb.ny.gov/>); (Reference applicable IFB/RFP and Group #s on the form.)
- 2. Certificate of Workers' Compensation Insurance:
 - a. Form C-105.2 (9/07) if coverage is provided by the Bidder's insurance carrier, Bidder must request its carrier to send this form to Fredonia, or
 - b. Form U-26.3 if coverage is provided by the State Insurance Fund, Bidder must request that the State Insurance Fund send this form to Fredonia.
- 3. Form SI-12, Certificate of Workers' Compensation Self-Insurance available from the New York State Workers' Compensation Board's Self-Insurance Office.
- 4. Form GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance available from the Bidder's Group Self-Insurance Administrator.

Proof of Compliance with Disability Benefits Coverage Requirements:

In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to disability benefits, a Bidder shall:

- 1. Be legally exempt from obtaining disability benefits coverage; or
- 2. Obtain such coverage from an insurance carrier; or
- 3. Be a Board-approved self-insured employer.

A Bidder seeking to enter into a contract with the State of New York shall provide one of the following forms to

Fredonia at the time of bid submission or shortly after the opening of bids:

1. Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, that New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required, which is available on the Workers' Compensation Board's website (<http://www.wcb.ny.gov/>); (Reference applicable IFB/RFP and Group #s on the form.)
2. Form DB-120.1, Certificate of Disability Benefits Insurance. Bidder must request its business insurance carrier to send this form to Fredonia; or
3. Form DB-155, Certificate of Disability Benefits Self-Insurance. The Bidder must call the Board's Self-Insurance Office at 518-402-0247 to obtain this form.

All of the above referenced forms, except CE-200, SI-12 & DB-155 must name: SUNY Fredonia, University Services, 280 Central Ave., Fredonia, NY 14063 as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder) and also be named as additionally insured under this policy in section .

28. Travel

No travel will be reimburse.

29. Termination

The Contract awarded to the Successful Bidder (Contractor) may be terminated by Fredonia for any of the following reasons:

- a. *Convenience of Fredonia:* The contract may be terminated at any time upon receipt of thirty (30) days prior written notice given by Fredonia for whatever reason.
- b. *Event of default:* The contract may be terminated in the event of breach of any of its provisions by the Contractor, or if the Contractor's Services are deemed unsatisfactory in Fredonia's sole discretion, due to Contractor's fault or negligence, or that of its officers, employees, subcontractors, agents, licensees, licensors, or affiliates. In such event, Fredonia will send a written cure notice in accordance with the Notice provisions of the contract, and Contractor shall have thirty (30) days to correct the deficiencies noted. If the deficiencies are not corrected, Fredonia may terminate this contract immediately upon written notice.
- c. *Deficient Certifications:* If the awarded contract has a value greater than \$15,000, Fredonia shall have the right to terminate in the event the State Finance Law §139-j and §139-k certifications executed by the Contractor are found to be false or incomplete. If the contract has a value of greater than \$100,000 and Contractor's sales for the immediately preceding four quarters were greater than \$300,000, or if the contract has a value of \$125,000 or greater, Fredonia shall have the right to terminate in the event the successful bidder's Department of Taxation and Finance Contractor Certification form, ST 220-CA, statements are found to be false or incomplete.
- d. *Lack of Funds:* If for any reason the State of New York terminates or reduces its appropriations to Fredonia, the awarded contract may be terminated or reduced at Fredonia's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to Fredonia for payment of such costs. In any event, no liability shall be incurred by the State (including Fredonia) beyond monies available for the purposes of the awarded contract.
- e. Fredonia may terminate the awarded contract, upon written notice, in the event of any of the following: (1) Contractor makes an assignment for the benefit of creditors; (ii) a petition in bankruptcy or any insolvency proceeding is filed by or against Contractor and is not dismissed within thirty (30) days from the date of filing; or (iii) all or substantially all of Contractor's property is levied upon or sold in any judicial proceeding.

30. Procurement Lobbying Act – State Finance Law §§ 139-j and 139-k

Prior to approval of the contract for which this IFB has been issued by Fredonia, or if applicable, the Office of the State Comptroller, a Bidder shall not communicate with Fredonia other than with the persons identified in this IFB as Designated Contacts or with a person who the Designated Contacts has advised the Bidder in writing is also a Designated Contact. Generally, the New York State Finance Law restricts communications between a bidder or a person acting on behalf of a Bidder, including its lobbyist, to communications with the officers and employees of the procuring agency designated in each solicitation to receive such communications. Further, the law prohibits a communication (a "Contact") which a reasonable person would infer as an attempt to unduly influence the award, denial or amendment of a contract. These restrictions apply to each contract in excess of \$15,000 during the "restricted period" (the time commencing with the earliest written notice of the proposed procurement and ending with the later of approval of the final contract by the agency, or, if applicable, the State Comptroller). The agency must record all Contacts, and, generally, must deny an award of contract to a vendor involved in a knowing and willful Contact.

Each agency must develop guidelines and procedures regarding Contacts and procedures for the reporting and investigation of Contacts. Fredonia's procurement record must demonstrate compliance with these requirements. Fredonia will make a record of all Contacts, and such records of Contact will become part of the procurement record for this IFB. A determination that a Bidder or a person acting on behalf of a Bidder has intentionally made a Contact or provided inaccurate or incomplete information as to its past compliance with State Finance Law §§139-j and 139-k, is likely to result in denial of the award of contract under this IFB. Additional sanctions may apply. A complete copy of SUNY's Procurement Lobbying Policy and Procedure is available for review at http://www.suny.edu/sunypp/documents.cfm?doc_id=430

Each Bidder shall submit with its proposal a written affirmation of its understanding of SUNY's procurement lobbying procedures and agreement to comply with such procedures. The requisite form is provided as Attachment 4. It may also be accessed online at: http://www.suny.edu/sunypp/documents.cfm?doc_id=282

31. **Restrictions on the Activities of Current and Former State Officers and Employees**

All Bidders and Bidder employees must be aware of and comply with the requirements of the New York State Public Officers Law, all other appropriate provisions of New York State Law and all resultant codes, rules and regulations from State laws establishing the standards for business and professional activities of State employees and governing the conduct of employees of firms, associations and corporations in business with the State.

Contractors and their employees are cautioned that the hiring of former state employees may violate the Ethics Law. The governing provisions are set forth the New York State Public Officers Law §§ 73 and 74, and the underlying principle of law is to prevent conflicts of interest and encourage ethical behavior. The law may be found on the website of the New York State Joint Commission on Public Ethics at: http://www.jcope.ny.gov/about/laws_regulations.html.

32. **Diesel Emissions Reduction Act of 2006**

The Successful Bidder (Contractor) certifies and warrants that all heavy duty vehicles, as defined in New York State Environmental Conservation Law (ECL) section 19-0323, to be used by Contractor, its agents or subcontractors under the contract awarded, will comply with the specifications and provisions of ECL section 19-0323 and any regulations promulgated pursuant thereto, which requires the use of Best Available Retrofit Technology ("BART") and Ultra Low Sulfur Fuel ("ULSD"), unless specifically waived by DEC. Qualification for a waiver under this law will be the responsibility of Contractor. Annually, but no later than March 1st, Contractor shall complete and submit directly to Fredonia, via electronic mail, the Regulated Entity Vehicle Inventory Form and Regulated Entity and Contractors Annual Report forms available at the Department of Environmental Conservation ("DEC") website: <http://www.dec.ny.gov/chemical/4754.html>, for heavy duty vehicles used in the performance of the contract awarded for the preceding calendar year. The Contractor shall certify to Fredonia, and submit with each application for payment, Contractor and Subcontractor Certification forms, which state that the Contractor will comply with the provisions of ECL Section 19.0323.

33. **Smoke Free Fredonia**

The Fredonia campus is smoke free. No smoking is permitted within the buildings or upon the grounds owned or leased by Fredonia. The Successful Bidder (Contractor) must communicate this policy to its employees, subcontractors, and any other individuals assigned to enter upon Fredonia grounds and premises in connection with the services to be performed in connection with the contract awarded.

34. **Bill Rates**

Bill rates, once established by the bidding process, will not be changed during the term of this agreement.

35. **Payment Terms**

Payment under the Resulting Agreement shall be made to Bidder in accordance with New York State Finance Law, Article 11-A, upon receipt of a proper invoice. As a State agency, Fredonia cannot pre-pay or pay deposits for services not yet rendered. Please note that the State budget and/or the appropriation budgeted funds to Fredonia may be delayed in any given fiscal year due to circumstances beyond Fredonia's control, which can delay payments for services. Any interest for late payments is paid in accordance with New York State "Prompt Payment Legislation". Any and all invoices for amounts payable shall be sent to:

SUNY Fredonia
Accounts Payable
280 Central Ave.
Fredonia, NY 14063

36. **Sales and Compensating use Tax Documentation**

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded state contracts for commodities, services and technology valued at more than \$100,000 to certify to the Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to contracts where the total amount of such contractors' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any

affiliates and subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agency, from approving a contract awarded to a contractor meeting the registration requirements but who is not so registered in accordance with the law.

The web links to obtain these Contractor certification forms are provided below. Form No. ST-220-TD must be filed with and returned directly to DTF. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the contractor, its affiliate(s), or its subcontractor(s), a new Form No. ST-220-TD must be filed with DTF.

Form ST-220-CA must be filed with the bid and submitted to the procuring covered agency certifying that the contractor filed the ST-220-TD with DTF. Proposed contractors should complete and return the certification forms with their bid submission. Failure to make either of these filings may render a bidder non-responsive and non-responsible. Bidders shall take the necessary steps to provide properly certified forms to ensure compliance with the law.

Bidders may call DTF at **1-800-698-2909** for any and all questions relating to Section 5-a of the Tax Law and relating to a company's registration status with the DTF. For additional information and frequently asked questions, please refer to the DTF web site: <http://www.nystax.gov>.

The Fredonia reserves the right to terminate any Resulting Agreement in the event it is found that the certification filed by Bidder in accordance with § 5-a of the Tax Law is not timely filed during the term of the agreement or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, the Fredonia may exercise its termination right by providing written notification to successful Bidder.

Complete one (1) original copy of the New York State Department of Taxation and Finance ("NYS DTF") Form ST-220-CA and return with your proposal. Document must be sworn and notarized. The form can be found at: https://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf.

Complete one (1) original copy of the NYSDTF Form ST-220-TD and return to the Department of Taxation and Finance. Document must be sworn and notarized. The form can be found at: https://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf.

Balance of page left intentionally blank

State University of New York
Notary Acknowledgement

INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGEMENT

Contract No.:

STATE OF)

SS:

County of)

On this ____ day of ____ 20____, before me personally appeared _____, to me known and known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that he/she resides at

_____,
Town of _____,

County of _____

State of _____ and further that:

[CHECK ONE]

____ (If an Individual): he/she executed the foregoing instrument in his/her name and on his/her own behalf.

____ (If a Corporation): he/she is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, he/she is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, he/she executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

____ (If a Partnership): he/she is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, he/she is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, he/she executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

____ (If a limited liability company): he/she is a duly authorized member of _____ LLC, the limited liability company described in said instrument; that, he/she is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, he/she executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public

Registration Number: _____ State of: _____

THIS PAGE MUST BE SIGNED IN THE ORIGINAL AND MUST ACCOMPANY EACH COPY OF YOUR BID.

Attachment 1: Bid Submission Checklist

√	Description
<input type="checkbox"/>	IFB Summary Information Form
<input type="checkbox"/>	Notary Acknowledgement Form
<input type="checkbox"/>	Attachment 1: Bid Submission Checklist
<input type="checkbox"/>	Attachment 2: Bidder Qualifications Submission Form
<input type="checkbox"/>	Cover letter indicating that IFB instructions and project specifications are understood and ability to meet and comply with all project specifications.
<input type="checkbox"/>	Addressed all points and questions in IFB in the order that they appear including requested samples/resumes/etc. (Section 2: Project Specifications and Section 3: Proposal Requirements)
<input type="checkbox"/>	Attachment 3: Procurement Lobbying Act Certification
<input type="checkbox"/>	Attachment 4: Non-Collusive Bidding Certification
<input type="checkbox"/>	Attachment 5: Vendor Responsibility Packet
<input type="checkbox"/>	Exhibits A and A-1
<input type="checkbox"/>	Exhibit C: Specifications and Cost Worksheet IFB 483453
<input type="checkbox"/>	

Attachment 2: Bidder Qualifications Submission Form
Mandatory Bidder Qualifications: Use additional sheet if more room is needed

Mandatory Qualification Description	Bidder Response
<p>1. Information Submittals: Written and graphic information and physical samples that do not require a responsive action. Submittals may be rejected for not complying with the requirements. Information submittals are those submittals indicated in this section as information submittals.</p>	
<p>2. Equivalent Product: Product that is demonstrated and approved through submittal process to have the indicated qualities related to type, function, dimension, in-service performance, physical properties, appearance, and other characteristics that equal or exceed those of specified products.</p>	
<p>3. Product Data: Submit manufacturer's data sheets on each product.</p>	
<p>4. REFERENCE STANDARDS A. ASTM A53/A53M-20 - Standard Specification for Pipe, Steel, Black and Hot- Dipped, Zinc-Coated, Welded and Seamless. B. ASTM C33 - 18 - Standard Specification for Concrete Aggregates. C. ASTM C150 -20 - Standard Specification for Portland Cement.</p>	
<p>5. Shop Drawings: Provide drawings of the manufacturer's required installation and foundation requirements. Indicate overall system layout; including but not limited to pole spacing, foundations (size & depth), relationship and proximity to existing adjacent structures & surfaces, heights, types of materials used, fastening and anchorage details and accessories.</p>	
<p>6. Delegated-Design Submittal: For Retractable Fencing system (foundation, poles, netting, etc.), including analysis data signed and sealed by the qualified professional engineer responsible for their preparation. Design shall include all requirements for wind, material and other environmental loads and conditions specific to the project site.</p>	
<p>7. Store products in manufacturer's unopened packaging until ready for installation.</p>	
<p>8. Comparable Product Request: Submit request for consideration of each comparable product. Provide a "Side by Side" comparison identifying product or fabrication or installation method to be replaced. 1. Include data to indicate compliance with the requirements specified. 2. Campus Action: If necessary, the campus will request additional information or documentation for evaluation within one week of receipt of a comparable product request.</p>	
<p>9. Retractable netting (backstop) fencing: 1. Ball Fabrics: www.ballfabrics.com or equivalent. 2. Equivalent Products (Substitutions): See Part 1 General, Section 1.03 Definitions Subsection B Equivalent Products.</p>	

<p>10. RETRACTABLE NETTING</p> <p>A. Product allows the user to raise and lower a barrier netting system during softball field use.</p> <p>1. Style: Retractable barrier netting system capable of being raised and lowered by one person from the ground.</p> <p>2. Netting:</p> <p>a. Product: #24 Knotted Nylon Baseball/Softball Netting.</p> <p>b. Fiber: 100% UV Treated Nylon.</p> <p>c. Color: Black.</p> <p>d. Construction: Knotted 1 ¾" Square Mesh.</p> <p>e. Break Test: 210 LBS</p> <p>f. Burst Test: 258 LBS</p> <p>3. Mounting, Ground: In-ground placement.</p> <p>4. Support poles spacing: 20'-0" on center or as required by the manufacturer's standard system requirements.</p> <p>5. Support pole height: 40'-0" minimum.</p> <p>6. Support pole finish: Hot-dipped galvanized, maintenance-free and weather-resistant.</p> <p>7. Accessories: Cables, cranks, clips, fasteners, pulley, etc or as required by the manufacturer's standard system requirements. Finish to be minimum hot-dipped galvanized, maintenance free and weather-resistant.</p>	
<p>11. EXECUTION EXAMINATION</p> <p>A. Examine area where support posts are to be installed for compliance with requirements and other conditions affecting installation.</p> <p>B. Notify the campus of any discrepancies discovered in the field prior to installation.</p> <p>C. Proceed with installation after unsatisfactory conditions have been corrected.</p> <p>D. Comply with manufacturer's written instructions.</p> <p>E. Do not install damaged components.</p> <p>F. Adjust operable hardware and all moving parts (cranks, cables, pulleys, etc.) to function smoothly; lubricate as recommended by manufacturer.</p> <p>G. Verify that all safety devices are properly functioning.</p> <p>H. Project completion Date of June 1, 2021</p>	

Attachment 3: Procurement Lobbying Act Certification

State Finance Law §§139-j and 139-k, enacted by Ch. 1 L. 2005, as amended by Ch. 596 L. 2005, effective January 1, 2006, regulate lobbying on government procurement, including procurements by State University to obtain commodities and services and to undertake real estate transactions.

Generally, the law restricts communications between a potential vendor or a person acting on behalf of the vendor, including its lobbyist, to communications with the officers and employees of the procuring agency designated in each solicitation to receive such communications. Further, the law prohibits a communication (a "Contact") which a reasonable person would infer as an attempt to unduly influence the award, denial or amendment of a contract. These restrictions apply to each contract in excess of \$15,000 during the "restricted period" (the time commencing with the earliest written notice of the proposed procurement and ending with the later of approval of the final contract by the agency, or, if applicable, the State Comptroller). The agency must record all Contacts, and, generally, must deny an award of contract to a vendor involved in a knowing and willful Contact. Each agency must develop guidelines and procedures regarding Contacts and procedures for the reporting and investigation of Contacts. The agency's procurement record must demonstrate compliance with these new requirements.

Accordingly, neither a potential vendor nor a person acting on behalf of the vendor should contact any individual at State University other than the person designated in this solicitation as State University's Designated Contact, nor attempt to unduly influence award of the contract. State University will make a record of all Contacts, and such records of Contact will become part of the procurement record for this solicitation. A determination that a vendor or a person acting on behalf of the vendor has made intentionally a Contact or provided inaccurate or incomplete information as to its past compliance with State Finance Law §§139-j and 139-k is likely to result in denial of the award of contract under this solicitation. Additional sanctions may apply.

The University's Procedures are available at: http://www.suny.info/policies/groups/public/documents/policies/pub_suny_pp_039630.htm

Please complete the following:

1. As defined in State Finance Law §§ 139-j (1)(a), has a governmental agency made a determination of non-responsibility with respect to the Offeror within the previous four years where such a finding was due to a violation of State Finance Law §§ 139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility? NO YES If yes, attach explanation

2. Has a governmental entity terminated or withheld a procurement contract with the Offeror because of violations of State Finance Law §§ 139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility? NO YES yes, attach explanation

CERTIFICATION:

By signing below the Bidder affirms and certifies that it: (1) has reviewed and understands the Policy and Procedure of Fredonia, related to SFL §§ 139-j and 139-k, (2) agrees to comply with Fredonia's procedure relating to Contacts with respect to this procurement, and (3) has provided information that is complete, true, and accurate with respect to SFL §§ 139-j and 139-k. Bidder understands that Fredonia reserves the right to terminate any resulting contract in the event it is found that the certification filed by the Bidder in accordance State Finance Law §§139-j and 139-k was intentionally false or intentionally incomplete. Upon such finding, Fredonia may exercise its termination right by providing written notification to the Bidder in accordance with the written notification terms of the contract.

Firms Name and Address:	
FEIN #:	
Telephone Number: (____)____-____	
Fax Number: (____)____-____	
Email Address:	
Bidder's Name and Title:	
Bidder's Signature:	
Date:	

Attachment 4: Non-Collusive Bidding Certification

By Submission Of This Bid, Bidder And Each Person Signing On Behalf Of Bidder Certifies, And In The Case Of Joint Bid, 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 of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;
- 2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and
- 3. No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

A Bid Shall Not Be Considered For Award Nor Shall Any Award Be Made Where [1], [2], [3] Above Have Not Been Complied With: Provided However, That If In Any Case The Bidder(S) Cannot Make The Foregoing Certification, The Bidder Shall So State And Shall Furnish Below A Signed Statement Which Sets Forth In Detail The Reasons Therefore:

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

Subscribed to under penalty of perjury under the laws of the State of New York, this _____ day of _____, 20____ as the act and deed of said corporation or partnership.

**IF BIDDER(S) (ARE) A PARTNERSHIP, COMPLETE THE FOLLOWING:
NAMES OF PARTNERS OR PRINCIPALS LEGAL RESIDENCE**

_____	_____
_____	_____
_____	_____
_____	_____

IFB#:032121

**IF BIDDER(S) (ARE) A CORPORATION, COMPLETE THE FOLLOWING:
NAME LEGAL RESIDENCE**

President:

Secretary:

Treasurer:

President:

Secretary:

Treasurer

Identifying Data

Potential Contractor	
Address	
Telephone	
Name of Responsible Corporate Officer	
Title of Responsible Corporate Officer	
Signature:	

Joint or combined bids by companies or firms must be certified on behalf of each participant.

Legal name of person, firm or corporation

Legal name of person, firm or corporation

By _____

Printed Name:

Title:

Address:

by _____

Printed Name:

Title:

Address:

**Attachment 5: Vendor Responsibility Packet
SUNY FREDONIA**

VENDOR RESPONSIBILITY PACKET

Contents:

Page 29 Introduction and Directions
Pages 30 – 38 Vendor Responsibility Questionnaire and Certification
Page 39 New York State Finance Law 139 Form
Page 40 New York State Public Officers Law Form
Page 41 Workers’ Compensation and Disability Benefits Compliance Requirements
Pages 42 – 43 New York State Department of Taxation and Finance ST-220-CA Form

Introduction:

Each contracting New York State Agency (e.g., SUNY Fredonia Medical University) conducts a review and evaluation of prospective contractors (vendors) to provide reasonable assurances that the vendor is responsible. Also, each agency must comply with New York State Finance Law §139, New York State Public Officers Law §§73 & 74, Workers’ Compensation and Disability Benefits coverage requirements, and New York State’s Tax Law Section 5-a. This packet is designed to provide information to assess a vendor’s authorization to do business in New York State, its business integrity, financial and organizational capacity, performance history, compliance with State Finance Law 139, coverage of workers’ compensation and disability benefits, and whether or not a vendor is required to collect state sales and compensating use tax.

Directions:

All information requested in this packet must be provided and every question contained in this packet must be addressed. Where a response requires additional information, attach a written response that adequately details the requested information. Please note on each response the page and question number. The completed questionnaires, forms, and attached responses will become part of Fredonia’s procurement record.

When providing additional information for an answer, your information and response should address the relationship of the issue to the proposed contract. Be brief, concise, and to the point. Discuss as appropriate, the following:

- Provide a description of the issue and identify the actions taken or currently being implemented to ensure that the issue will not occur again.
- State whether the staff and/or organizational component involved in the identified issue(s) will work on the proposed contract. If so, provide information to assure the agency that the issue will not be repeated.
- Identify the relationship (or lack thereof) between the product/services involved in the issue and the type of product/services proposed for this contract.
- State whether the issue will affect your financial or organizational ability to perform under the proposed contract.
- Provide copies of relevant documents or any other information that would assist Fredonia in its evaluation.

It is imperative the person completing the questionnaires and forms be knowledgeable about the proposing vendor’s business and operations, as an owner or officer, he or she must attest to the questionnaires’ and forms’ information.

Note: Page one of the ST-220-CA form refers to form ST-220-TD. The ST-220-TD form must be submitted by the vendor directly to the New York State Department of Taxation and Finance. The ST-220-TD is available on-line from the following web site: http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf

Checklist for signatures, notarization, and attachments required for this packet:

<input type="checkbox"/>	Page 37-38	Signature and Notary – Vendor Responsibility
<input type="checkbox"/>	Page 39	Signature – NY State Finance Law 139 section
<input type="checkbox"/>	Page 40	Public Officers Law section
<input type="checkbox"/>	Page 41	Workers’ Compensation and Disability Benefits forms
<input type="checkbox"/>	Page 42 (page 1 of ST-220-CA)	Complete and sign as required – NY State Department of Taxation and Finance ST-220-CA section
<input type="checkbox"/>	Page 43 (page 2 of ST-220-CA)	Notary signature - ST-220-CA
<input type="checkbox"/>		Attachments for additional information (as needed)

ALL INFORMATION REQUESTED MUST BE PROVIDED AND ALL QUESTIONS MUST BE ANSWERED.

If you have any questions regarding this packet, contact Soteris Tzitzis at 716-673-3257

Send completed packet to:

Attn: Soteris Tzitzis
University Services
SUNY Fredonia
280 Central Ave.
Fredonia, New York 14063

SUNY FREDONIA

FOR-PROFIT NON-CONSTRUCTION VENDOR RESPONSIBILITY QUESTIONNAIRE SECTION

COMPLETION & CERTIFICATION
<p>The person(s) completing the questionnaire must be knowledgeable about the vendor’s business and operations. An owner or officer must certify the questionnaire and the signature must be notarized.</p>
NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)
<p>The <u>Vendor ID</u> is a ten-digit identifier issued by New York State when the vendor is registered on the Statewide Vendor File. This number must now be included on the questionnaire. If the business entity has not obtained a <u>Vendor ID</u>, contact the OSC Help Desk at ciohelpdesk@osc.state.ny.us or call 866-370-4672.</p>
DEFINITIONS
<p>All underlined terms are defined in the “New York State Vendor Responsibility Definitions List,” found at www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf. These terms may not have their ordinary, common or traditional meanings. Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.</p>
RESPONSES
<p>Every question must be answered. Each response must provide all relevant information which can be obtained within the limits of the law. However, information regarding a determination or finding made in error which was subsequently corrected is not required. Individuals and <u>Sole Proprietors</u> may use a Social Security Number but are encouraged to obtain and use a federal <u>Employer Identification Number (EIN)</u>.</p>
REPORTING ENTITY
<p>Each vendor must indicate if the questionnaire is filed on behalf of the entire <u>Legal Business Entity</u> or an <u>Organizational Unit</u> within or operating under the authority of the <u>Legal Business Entity</u> and having the same <u>EIN</u>. Generally, the <u>Organizational Unit</u> option may be appropriate for a vendor that meets the definition of “<u>Reporting Entity</u>” but due to the size and complexity of the <u>Legal Business Entity</u>, is best able to provide the required information for the <u>Organizational Unit</u>, while providing more limited information for other parts of the <u>Legal Business Entity</u> and Associated Entities.</p>
ASSOCIATED ENTITY
<p>An <u>Associated Entity</u> is one that owns or controls the <u>Reporting Entity</u> or any entity owned or controlled by the <u>Reporting Entity</u>. However, the term <u>Associated Entity</u> does not include “sibling organizations” (i.e., entities owned or controlled by a parent company that owns or controls the <u>Reporting Entity</u>), unless such sibling entity has a direct relationship with or impact on the <u>Reporting Entity</u>.</p>
STRUCTURE OF THE QUESTIONNAIRE
<p>The questionnaire is organized into eleven sections. Section I is to be completed for the <u>Legal Business Entity</u>. Section II requires the vendor to specify the <u>Reporting Entity</u> for the questionnaire. Section III refers to the individuals of the <u>Reporting Entity</u>, while Sections IV-VIII require information about the <u>Reporting Entity</u>. Section IX pertains to any Associated Entities, with one question about their <u>Officials/Owners</u>. Section X relates to disclosure under the Freedom of Information Law (FOIL). Section XI requires an authorized contact for the questionnaire information.</p>

I. LEGAL BUSINESS ENTITY INFORMATION			
<u>Legal Business Entity Name</u>		<u>EIN</u>	
Address of the <u>Principal Place of Business</u> (street, city, state, zip code)		<u>New York State Vendor Identification Number</u>	
		Telephone	Fax
Email		Website	
Additional <u>Legal Business Entity</u> Identities: If applicable, list any other <u>DBA</u> , <u>Trade Name</u> , <u>Former Name</u> , Other Identity, or <u>EIN</u> used in the last five (5) years and the status (active or inactive).			
Type	Name	EIN	Status
1.0 <u>Legal Business Entity</u> Type – Check appropriate box and provide additional information:			
<input type="checkbox"/> <u>Corporation</u> (including <u>PC</u>)		Date of Incorporation	
<input type="checkbox"/> <u>Limited Liability Company</u> (<u>LLC</u> or <u>PLLC</u>)		Date of Organization	
<input type="checkbox"/> <u>Partnership</u> (including <u>LLP</u> , <u>LP</u> or <u>General</u>)		Date of Registration or Establishment	
<input type="checkbox"/> <u>Sole Proprietor</u>		How many years in business?	
<input type="checkbox"/> Other		Date Established	
If Other, explain:			
1.1 Was the <u>Legal Business Entity</u> formed or incorporated in New York State?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If 'No,' indicate jurisdiction where <u>Legal Business Entity</u> was formed or incorporated and attach a <u>Certificate of Good Standing</u> from the applicable jurisdiction or provide an explanation if a <u>Certificate of Good Standing</u> is not available.			
<input type="checkbox"/> United States State _____			
<input type="checkbox"/> Other Country _____			
Explain, if not available:			
1.2 Is the <u>Legal Business Entity</u> publicly traded?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide <u>CIK Code</u> or Ticker Symbol			
1.3 Does the <u>Legal Business Entity</u> have a <u>DUNS</u> Number?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," Enter <u>DUNS</u> Number			

¹All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," which can be found at www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf.

I. LEGAL BUSINESS ENTITY INFORMATION		
1.4 If the <u>Legal Business Entity's Principal Place of Business</u> is not in New York State, does the <u>Legal Business Entity</u> maintain an office in New York State? (Select "N/A," if <u>Principal Place of Business</u> is in New York State.)		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
If "Yes," provide the address and telephone number for one office located in New York State.		
1.5 Is the <u>Legal Business Entity</u> a New York State certified <u>Minority-Owned Business Enterprise (MBE)</u> , <u>Women-Owned Business Enterprise (WBE)</u> , <u>New York State Small Business (SB)</u> or a federally certified <u>Disadvantaged Business Enterprise (DBE)</u> ? If "Yes," check all that apply: <ul style="list-style-type: none"> <input type="checkbox"/> New York State certified <u>Minority-Owned Business Enterprise (MBE)</u> <input type="checkbox"/> New York State certified <u>Women-Owned Business Enterprise (WBE)</u> <input type="checkbox"/> <u>New York State Small Business (SB)</u> <input type="checkbox"/> Federally certified <u>Disadvantaged Business Enterprise (DBE)</u> 		<input type="checkbox"/> Yes <input type="checkbox"/> No
1.6 Identify <u>Officials</u> and <u>Principal Owners</u> , if applicable. For each person, include name, title and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional.		
Name	Title	Percentage Ownership <i>(Enter 0% if not applicable)</i>

II. REPORTING ENTITY INFORMATION	
2.0 The <u>Reporting Entity</u> for this questionnaire is: Note: Select only one. <ul style="list-style-type: none"> <input type="checkbox"/> <u>Legal Business Entity</u> <i>Note: If selecting this option, "Reporting Entity" refers to the entire Legal Business Entity for the remainder of the questionnaire. (SKIP THE REMAINDER OF SECTION II AND PROCEED WITH SECTION III.)</i> <input type="checkbox"/> <u>Organizational Unit</u> within and operating under the authority of the Legal Business Entity SEE DEFINITIONS OF "<u>REPORTING ENTITY</u>" AND "<u>ORGANIZATIONAL UNIT</u>" FOR ADDITIONAL INFORMATION ON CRITERIA TO QUALIFY FOR THIS SELECTION. <i>Note: If selecting this option, "Reporting Entity" refers to the Organizational Unit within the Legal Business Entity for the remainder of the questionnaire. (COMPLETE THE REMAINDER OF SECTION II AND ALL REMAINING SECTIONS OF THIS QUESTIONNAIRE.)</i> 	
IDENTIFYING INFORMATION	
a) <u>Reporting Entity Name</u>	
Address of the <u>Primary Place of Business</u> (street, city, state, zip code)	Telephone ext.
b) Describe the relationship of the <u>Reporting Entity</u> to the <u>Legal Business Entity</u>	
c) Attach an <u>organizational chart</u>	
d) Does the Reporting Entity have a <u>DUNS</u> Number?	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. REPORTING ENTITY INFORMATION	
If "Yes," enter <u>DUNS</u> Number	
e) Identify the designated manager(s) responsible for the business of the <u>Reporting Entity</u> . <i>For each person, include name and title. Attach additional pages if necessary.</i>	
Name	Title

INSTRUCTIONS FOR SECTIONS III THROUGH VII

For each "Yes," provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). For each "Other," provide an explanation which provides the basis for not definitively responding "Yes" or "No." Provide the explanation at the end of the section or attach additional sheets with numbered responses, including the Reporting Entity name at the top of any attached pages.

III. LEADERSHIP INTEGRITY	
<i>Within the past five (5) years, has any current or former reporting entity official or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the reporting entity with any government entity been:</i>	
3.0 <u>Sanctioned</u> relative to any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.1 <u>Suspended, debarred, or disqualified</u> from any <u>government contracting process</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.2 The subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
For each "Yes" or "Other" explain:	

IV. INTEGRITY – CONTRACT BIDDING	
<i>Within the past five (5) years, has the reporting entity:</i>	
4.0 Been <u>suspended</u> or <u>debarred</u> from any <u>government contracting process</u> or been <u>disqualified</u> on any government procurement, permit, license, concession, franchise or lease, including, but not limited to, <u>debarment</u> for a violation of New York State Workers' Compensation or Prevailing Wage laws or New York State Procurement Lobbying Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.1 Been subject to a denial or revocation of a government prequalification?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.2 Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.3 Had a low bid rejected on a <u>government contract</u> for failure to <u>make good faith efforts</u> on any <u>Minority-Owned Business Enterprise, Women-Owned Business Enterprise or Disadvantaged Business Enterprise</u> goal or <u>statutory affirmative action requirements</u> on a previously held contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.4 Agreed to a voluntary exclusion from bidding/contracting with a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.5 Initiated a request to withdraw a bid submitted to a <u>government entity</u> in lieu of responding to an information request or subsequent to a formal request to appear before the <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each "Yes," explain:	

V. INTEGRITY – CONTRACT AWARD	
<i>Within the past five (5) years, has the reporting entity:</i>	
5.0 Been <u>suspended</u> , cancelled or <u>terminated for cause</u> on any <u>government contract</u> including, but not limited to, a <u>non-responsibility finding</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5.1 Been subject to an <u>administrative proceeding</u> or civil action seeking specific performance or restitution in connection with any <u>government contract</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5.2 Entered into a formal monitoring agreement as a condition of a contract award from a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each "Yes," explain:	

VI. CERTIFICATIONS/LICENSES	
<i>Within the past five (5) years, has the reporting entity:</i>	
6.0 Had a revocation, <u>suspension</u> or <u>disbarment</u> of any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or federal certification of <u>Disadvantaged Business Enterprise</u> status for other than a change of ownership?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each "Yes," explain:	

VII. LEGAL PROCEEDINGS	
<i>Within the past five (5) years, has the reporting entity:</i>	
7.0 Been the subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.1 Been the subject of an indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as <u>serious</u> or <u>willful</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.3 Had a <u>government entity</u> find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any <u>government entity</u> involving a violation of federal, state or local environmental laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.5 Other than previously disclosed: a) Been subject to fines or penalties imposed by <u>government entities</u> which in the aggregate total \$25,000 or more; or b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each "Yes," explain:	

VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY	
8.0 Within the past five (5) years, has the <u>Reporting Entity</u> received any <u>formal unsatisfactory performance assessment(s)</u> from any <u>government entity</u> on any contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY	
8.1 Within the past five (5) years, has the <u>Reporting Entity</u> had any <u>liquidated damages</u> assessed over \$25,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.2 Within the past five (5) years, have any <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$25,000 been filed against the <u>Reporting Entity</u> which remain undischarged?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, the Lien holder or Claimant's name(s), the amount of the <u>lien(s)</u> and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.3 In the last seven (7) years, has the <u>Reporting Entity</u> initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "Initiated," "Pending" or "Closed." Provide answer below or attach additional sheets with numbered responses.	
8.4 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any tax returns required by <u>federal</u> , state or local tax laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the <u>Reporting Entity</u> failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses.	
8.5 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any New York State unemployment insurance returns?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the years the <u>Reporting Entity</u> failed to file/pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.6 During the past three (3) years, has the <u>Reporting Entity</u> had any <u>government audit(s)</u> completed?	<input type="checkbox"/> Yes <input type="checkbox"/> No
a) If "Yes," did any audit of the <u>Reporting Entity</u> identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any <u>material disallowance</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" to 8.6 a), provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

IX. ASSOCIATED ENTITIES <i>This section pertains to any entity(ies) that either controls or is controlled by the reporting entity. (See definition of "associated entity" for additional information to complete this section.)</i>	
9.0 Does the Reporting Entity have any Associated Entities? Note: All questions in this section must be answered if the Reporting Entity is either: - An <u>Organizational Unit</u> ; or - The entire <u>Legal Business Entity</u> which controls, or is controlled by, any other entity(ies). If "No," SKIP THE REMAINDER OF SECTION IX AND PROCEED WITH SECTION X.	<input type="checkbox"/> Yes <input type="checkbox"/> No
9.1 Within the past five (5) years, has any <u>Associated Entity Official</u> or <u>Principal Owner</u> been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), the individual involved, his/her title and role in the <u>Associated Entity</u> , his/her relationship to the <u>Reporting Entity</u> , relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s).	
9.2 Does any <u>Associated Entity</u> have any currently undischarged federal, New York State, New York City or New York local government <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$50,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), identify the <u>Associated Entity's</u> name(s), <u>EIN(s)</u> , primary business activity, relationship to the <u>Reporting Entity</u> , relevant dates, the Lien holder or Claimant's name(s), the amount of the <u>lien(s)</u> and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
9.3 Within the past five (5) years, has any <u>Associated Entity</u> :	
a) Been <u>disqualified, suspended or debarred</u> from any federal, New York State, New York City or other New York local <u>government contracting process</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
b) Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by any federal, New York State, New York City, or New York local <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
c) Been <u>suspended, cancelled or terminated for cause</u> (including for <u>non-responsibility</u>) on any federal, New York State, New York City or New York local <u>government contract</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
d) Been the subject of an <u>investigation</u> , whether open or closed, by any federal, New York State, New York City, or New York local <u>government entity</u> for a civil or criminal violation with a penalty in excess of \$500,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
e) Been the subject of an indictment, grant of immunity, <u>judgment</u> , or conviction (including entering into a plea bargain) for conduct constituting a crime?	<input type="checkbox"/> Yes <input type="checkbox"/> No
f) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any federal, New York State, New York City, or New York local <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
g) Initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each "Yes," provide an explanation of the issue(s), identify the <u>Associated Entity's</u> name(s), <u>EIN(s)</u> , primary business activity, relationship to the <u>Reporting Entity</u> , relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

X. FREEDOM OF INFORMATION LAW (FOIL)	
<p>10. Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL).</p> <p>Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>If "Yes," indicate the question number(s) and explain the basis for the claim.</p>	

XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE		
Name	Telephone	Fax
	ext.	
Title	Email	

Certification

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State government entities (including the Office of the State Comptroller (OSC)) in making responsibility determinations regarding award or approval of a contract or subcontract and that such government entities will rely on information disclosed in the questionnaire in making responsibility determinations; (2) acknowledges that the New York State government entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (3) acknowledges that intentional submission of false or misleading information may result in criminal penalties under State and/or Federal Law, as well as a finding of non-responsibility, contract suspension or contract termination.

The undersigned certifies that he or she:

- is knowledgeable about the submitting Business Entity’s business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Business Entity’s responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State government entities will rely on the information disclosed in the questionnaire when entering into a contract with the Business Entity; and
- is under an obligation to update the information provided herein to include any material changes to the Business Entity’s responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State government entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Official

Printed Name of Signatory

Title

Name of Business

Address

City, State, Zip

Sworn to before me this _____ day of _____, 20__;

_____ Notary Public

STATE FINANCE LAW 139 SECTION

Contractor Disclosure of Prior Non-Responsibility Determinations and Contract Termination Provision

This form shall be completed and submitted in accordance with New York State, State Finance Law (SFL) §§139-j and 139-k. Failure to complete and submit this form shall result in a determination of non-responsiveness and disqualification of the bid, proposal or offer. You agree to update this information as changes occur or as requested. New York State's State Finance Laws can be found at:

<http://ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>

Fredonia reserves the right to terminate this contract in the event it is found that the certification filed by the Offerer in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Fredonia may exercise its termination right by providing written notification to the Offerer in accordance with the written notification terms of this contract.

Name of Contractor: _____ Fed. ID# _____

Address: _____

Name of Person Submitting this Form: _____

Title of Person Submitting this Form: _____

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 check): No Yes

If yes, was the basis for the finding of non-responsibility was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j? (Please check): No Yes

If yes, was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please check): No Yes

If yes to any on the above, please provide details below regarding the finding of non-responsibility. Attach additional pages as necessary.

Covered agency or authority: _____

Year of finding of non-responsibility: _____

Basis of finding of non-responsibility: _____

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 check): No Yes

If yes, please provide details below. Attach additional pages as necessary.

Governmental entity or agency: _____

Date of termination or withholding of contract: _____

Basis of termination or withholding: _____

All contacts and/or inquiries regarding this procurement, be they oral, written, or electronic commencing with the earliest written notice, advertisement, or solicitation and ending with the final contract award, approved by SUNY Fredonia and, where applicable, Office of the State Comptroller shall only be directed to the following persons:

Soteris Tzitzis, Director University Services, 280 Central Ave., Fredonia, NY 14063

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).

Offerer certifies that all information provided to the Agency is complete, true, and accurate with regard to prior non-responsibility determinations within the past five years based on (i) impermissible contacts or other violations of SFL §139-j, or (ii) the intentional provision of false or intentionally incomplete information.

Signature: _____

Name: _____

Title: _____

END OF STATE FINANCE LAW 139 SECTION

PUBLIC OFFICERS LAW SECTION

Introduction:

The conflict of interest and code of ethics provisions of New York State Public Officers Law §§73 & 74 shall apply to all purchasing activities of SUNY Fredonia (collectively Fredonia). Fredonia is required to inquire if any member of a business entity is an officer or employee of the State of New York or of a public benefit corporation of the State of New York.

Directions:

1. The SUNY Fredonia Public Officers Law form consists of one (1) page.
2. The completed form will become a part of SUNY Fredonia's procurement record.
3. The form is a fillable document using MS Word.
4. It is imperative the person completing the form be knowledgeable of the vendor's business and operations.
5. To expedite the receipt of the completed and signed form:
Scan the completed document and e-mail it to Soteris.tzitzis@fredonia.edu or fax it to 716-673-4977, Attn: Soteris Tzitzis.

The original must be sent to the address shown below.

Attn: Soteris Tzitzis
University Services
SUNY Fredonia
280 Central Ave.
Fredonia, New York 14063

Fed. ID# _____

Name of Contractor: _____

Address: _____

Name of Person Submitting this Form: _____

Title of Person Submitting this Form: _____

Question:

Indicate if you or any officer of your organization, or any party owning or controlling more than ten (10) percent of your stock if you are a corporation, or any member if you are a firm or association is an officer or employee of the State of New York or of a public benefit corporation of the State of New York.

Yes No

Signature: _____

Date: _____

Contact Information: _____

If you have any questions regarding this form, contact Soteris Tzitzis at 716-673-3257 or e-mail Soteris.tzitzis@fredonia.edu

END OF PUBLIC OFFICERS LAW SECTION

WORKERS' COMPENSATION AND DISABILITY BENEFITS COMPLIANCE SECTION
SUNY FREDONIA MEDICAL UNIVERSITY
Compliance with Workers' Compensation and Disability Benefits Coverage Requirements

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide Procuring Agencies shall not enter into any contracts (new or renewal) or issue Purchase Orders unless proof of workers' compensation and disability benefits insurance coverage is produced. Prior to entering into a contract with SUNY Fredonia (Fredonia), vendors are required to verify for Fredonia, on forms authorized by the New York State Workers' Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms used to show compliance with the WCL are described below. An ACORD form is not acceptable proof of workers' compensation coverage or disability benefits insurance coverage.

For bids or proposals: Failure to provide verification of either of these types of insurance coverage by the time the winning Offeror is selected and the contract is ready to be executed will be grounds for disqualification of an otherwise successful bid or proposal.

For Purchase Orders: Purchase Orders will not be issued without verification of either of these types of insurance coverage. Any questions relating to either workers' compensation or disability benefits coverage should be directed to the State of New York Workers' Compensation Board, Bureau of Compliance at (518)486-6307. You may also find useful information at the following website:
<http://www.wcb.ny.gov>.

Proof of Compliance with Workers' Compensation Coverage Requirements

In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to workers' compensation coverage, a contractor shall:

1. Be legally exempt from obtaining Workers' Compensation insurance coverage; or
2. Obtain such coverage from an insurance carrier; or
3. Be a Workers' Compensation Board-approved self-insured employer or participate in an authorized self-insurance plan.

A Contractor seeking to enter into a contract with the State of New York shall provide one of the following forms to Fredonia at the time of bid submission or shortly after the opening of bids:

1. Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain out of State Entities, that New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required, which is available on the Workers' Compensation Board's website (<http://www.wcb.ny.gov>); (Reference applicable IFB/RFP and Group #s on the form.)
2. Certificate of Workers' Compensation Insurance:
 - a. Form C-105.2 (9/07) if coverage is provided by the contractor's insurance carrier, contractor must request its carrier to send this form to SUNY Fredonia, or
 - b. Form U-26.3 if coverage is provided by the State Insurance Fund, contractor must request that the State Insurance Fund send this form SUNY Fredonia.
3. Form SI-12, Certificate of Workers' Compensation Self-Insurance available from the New York State Workers' Compensation Board's Self-Insurance Office.
4. Form GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance available from the contractor's Group Self-Insurance Administrator.

Proof of Compliance with Disability Benefits Coverage Requirements

In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to disability benefits, a contractor shall:

1. Be legally exempt from obtaining disability benefits coverage; or
2. Obtain such coverage from an insurance carrier; or
3. Be a Board-approved self-insured employer.

A Contractor seeking to enter into a contract with the State of New York shall provide one of the following forms to Fredonia at the time of bid submission or shortly after the opening of bids:

1. Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, that New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required, which is available on the Workers' Compensation Board's website (<http://www.wcb.ny.gov>); (Reference applicable IFB/RFP and Group #s on the form.)
2. Form DB-120.1, Certificate of Disability Benefits Insurance. Contractor must request its business insurance carrier to send this form to SUNY Fredonia; or
3. Form DB-155, Certificate of Disability Benefits Self-Insurance. The Contractor must call the Board's Self-Insurance Office at 518-402-0247 to obtain this form.

ALL OF THE ABOVE REFERENCED FORMS, EXCEPT CE-200, SI-12 & DB-155 MUST NAME: SUNY Fredonia, University Services 280 Central Ave., Fredonia, NY 14063 as the Entity Requesting Proof of Coverage (Entity being listed as the CertificateHolder).

END OF WORKERS' COMPENSATION AND DISABILITY BENEFITS COMPLIANCE SECTION

NY STATE DEPARTMENT OF TAXATION AND FINANCE – ST-220-CA SECTION



New York State Department of Taxation and Finance

ST-220-CA
(12/11)

Contractor Certification to Covered Agency

(Pursuant to Section 5-a of the Tax Law as amended, effective April 26, 2006)

For more information, see Publication 223, Question and Answers Concerning Tax Law Section 5-a (see Need Help?).

Contractor Name				For covered agency use only Contract number or description
Contractor's principal place of business		City	State ZIP Code	
Mailing address (if different than above)		City	State ZIP Code	
Contractor's federal employer identification number (EIN)		Contractor's sales tax ID number (if different from contractor's EIN)		Estimated contract value over the full term of the contract (but not including renewals) \$
Contractor's telephone number	Covered agency			
Covered agency Address			Covered agency phone number	

I, (name) _____, hereby affirm, under penalty of perjury, that I am (title) _____ of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that: (Mark an X in only one box)

- The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.
- The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____ (insert contract number or description)

and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this _____ day of _____, 20____

(sign before a notary public)

(title)

Instructions

General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See *Need help?* For more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned *on or after April 26, 2006* (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF _____ }

: SS:

COUNTY OF _____ }

On the day _____ of _____ in the year 20____, before me personally appeared _____ known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that he or she resides at _____, Town of _____ County of _____ State of _____; and further that:

[Mark an X in the appropriate box and complete the accompanying statement.]

- (If an individual): He or She executed the foregoing instrument in his/her name and on his/her own behalf.
- (If a corporation): He or She is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, he or she is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, he or she executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
- (If a partnership): He or She is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, he or she is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, he or she executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
- (If a limited liability company): He or She is a duly authorized member of, _____ LLC, the limited liability company described in said instrument; that he or she is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, he or she executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public

Registration No.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(e)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data

Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



Visit our Web site at www.tax.ny.gov

- get information and manage your taxes online
- check for new online services and features



Telephone assistance

Sales Tax Information Center: (518) 485-2889

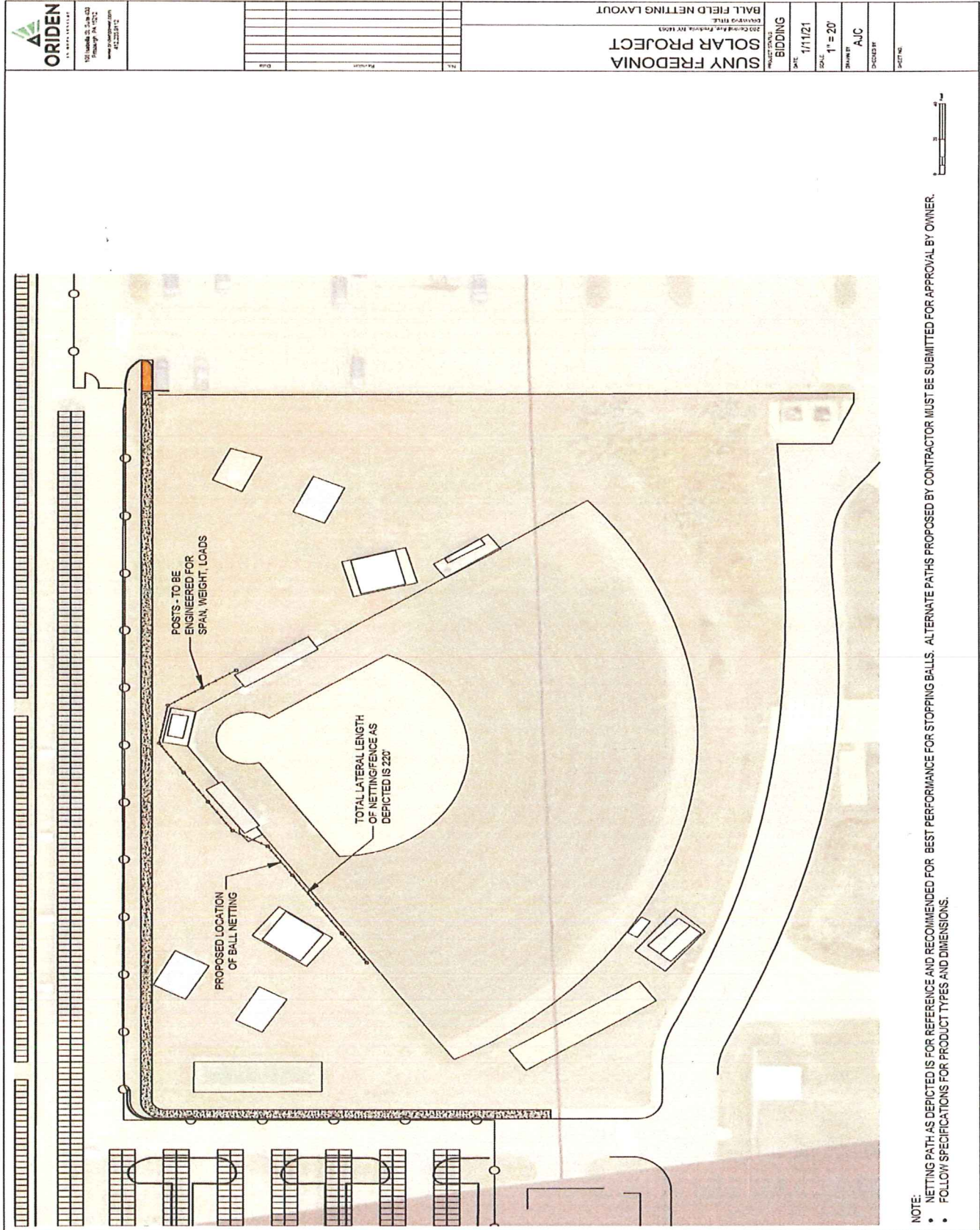
To order forms and publications: (518) 457-5431


Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082

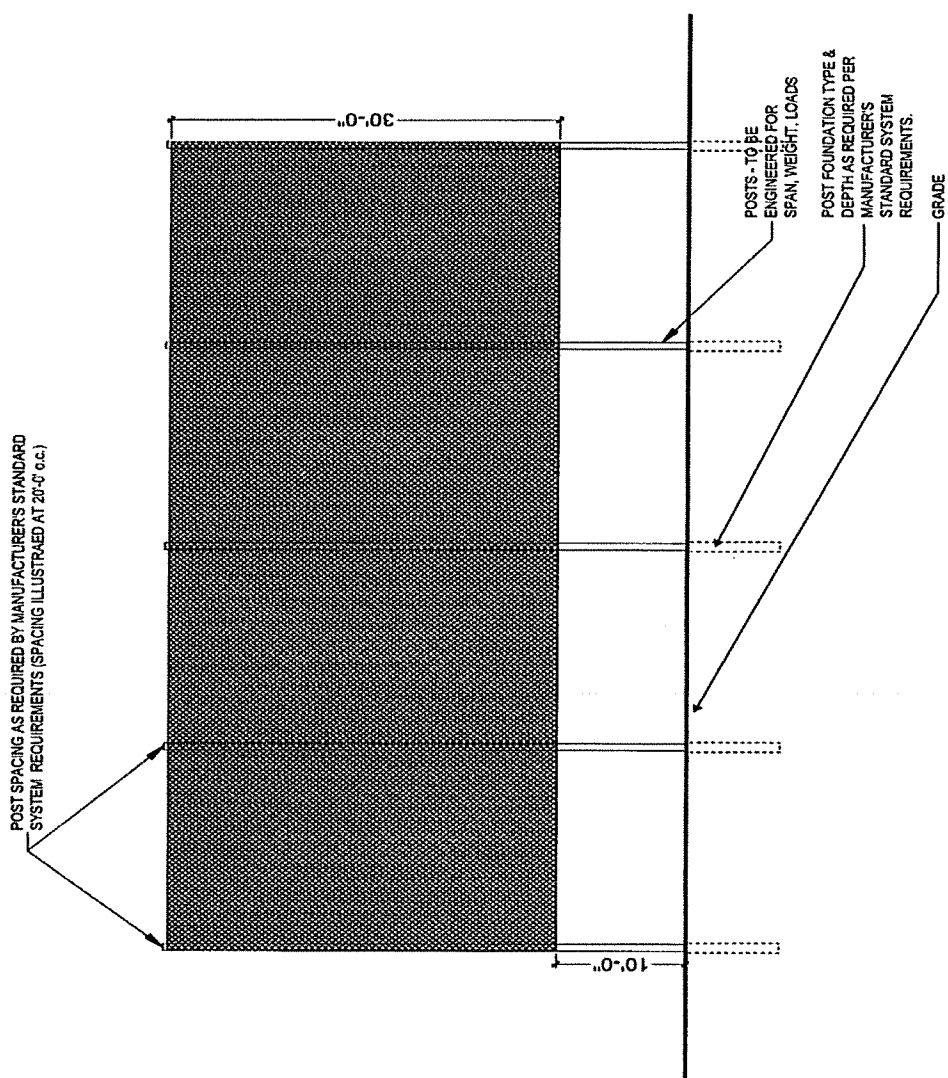


Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.

Attachment 6 Ball Field Netting Layout & Ball Field Netting Elevation Drawings



 <p>ORIDEN AN HOKU COMPANY</p> <p>120 HAWAII ST., SUITE 402 HONOLULU, HI 96813 PH: 808.531.2200 WWW.ORIDEN.COM P: 02222712</p>	<p>DATE: 1/11/21</p>	<p>SCALE: 1" = 40'</p>	<p>DRAWN BY: A.J.C.</p>	<p>CHECKED BY:</p>	<p>SHEET NO.:</p>
	<p>PROJECT: SUNY FREDONIA SOLAR PROJECT</p>	<p>DATE: 1/11/21</p>	<p>SCALE: 1" = 40'</p>	<p>DRAWN BY: A.J.C.</p>	<p>CHECKED BY:</p>



NOTE:

1. POST DIAMETER AS REQUIRED PER MANUFACTURER'S STANDARD SYSTEM REQUIREMENTS.
2. NET SYSTEM TO BE RETRACTABLE.
3. NETTING & POSTS TO BE MAINTENANCE FREE AND WEATHER RESISTANT.
4. REFER TO SPECIFICATIONS FOR ADDITIONAL REQUIREMENTS.

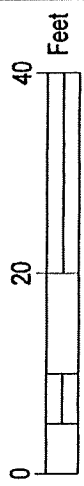


EXHIBIT A:
State University of New York Standard Contract Clauses
After this page

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

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

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

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law and Section 355 of the Education Law, if this contract exceeds \$250,000, or, if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State, and the State shall bear no liability, until it has been approved by the State Comptroller and filed in his or her office, or the pertinent pre-audit review period has elapsed. However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

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

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

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

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission

of competitive bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to SUNY a non-collusive bidding certification on Contractor's behalf.

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

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

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to SUNY or the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of SUNY contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this

contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

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

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

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

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

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

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

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

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

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award

will be in accordance with, but not limited to, the specifications and provisions of 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 Section 165 of the State Finance Law. Any such use must meet with the approval of the State, otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

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

20. OMNIBUS PROCUREMENT ACT OF 1992.

It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

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

NYS Department of Economic Development
Division for Small Business

Albany, NY 12245
Tel: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

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

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414

email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

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

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

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act of 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain.
NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this

provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa; State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal or similar services, then in accordance with Section 163(4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to SUNY, the Department of Civil Service and the State Comptroller.

24. PURCHASES OF APPAREL AND SPORTS EQUIPMENT. In accordance with State Finance Law Section 165(7), SUNY may determine that a bidder on a contract for the purchase of apparel or sports equipment is not a responsible bidder as defined in State Finance Law Section 163 based on (a) the labor standards applicable to the manufacture of the apparel or sports equipment, including employee compensation, working conditions, employee rights to form unions and the use of child labor; or (b) bidder's failure to provide information sufficient for SUNY to determine the labor conditions applicable to the manufacture of the apparel or sports equipment.

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

26. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this contract is a contract as defined by Tax Law § 5-a, if the Contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or SUNY discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and

this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the contract, if SUNY determines that such action is in the best interests of the State.

27. IRAN DIVESTMENT ACT. By entering into this contract, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:

<https://ogs.ny.gov/list-entities-determined--be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

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

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

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

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

THE FOLLOWING PROVISIONS SHALL APPLY ONLY TO THOSE CONTRACTS TO WHICH A HOSPITAL OR OTHER HEALTH SERVICE FACILITY IS A PARTY

29. Notwithstanding any other provision in this contract, the hospital or other health service facility remains responsible for insuring that any service provided pursuant to this contract complies with all pertinent provisions of Federal, state and local statutes, rules and regulations. In the foregoing sentence, the word "service" shall be construed to refer to the health care service rendered by the hospital or other health service facility.

30. (a) In accordance with the 1980 Omnibus Reconciliation Act (Public Law 96-499), Contractor hereby agrees that until the expiration of four years after the furnishing of services under this agreement, Contractor shall make available upon written request to the Secretary of Health and Human Services, or upon request, to the Comptroller General of the United States or any of their duly authorized representatives, copies of this contract, books, documents and records of the Contractor that are necessary to certify the nature and extent of the costs hereunder.

(b) If Contractor carries out any of the duties of the contract hereunder, through a subcontract having a value or cost of \$10,000 or more over a twelve-month period, such subcontract shall contain a clause to the effect that, until the expiration of four years after the furnishing of such services pursuant to such subcontract, the subcontractor shall make available upon written request to the Secretary of Health and Human Services or upon request to the Comptroller General of the United States, or any of their duly authorized representatives, copies of the subcontract and books, documents and records of the subcontractor that are necessary to verify the nature and extent of the costs of such subcontract.

(c) The provisions of this section shall apply only to such contracts as are within the definition established by the Health Care Financing Administration, as may be amended or modified from time to time.

31. Hospital Retained Authority: Hospital Retained Authority: The Hospital retains direct, independent authority over the appointment and/or dismissal, in its sole discretion, of the facility's management level employees (including but not limited to, the Facility/Service Administrator/Director, the Medical Director, the Director of Nursing, the Chief Executive Officer, the Chief Financial Officer and the Chief Operating Officer) and all licensed or certified health care staff. The Hospital retains the right to adopt and approve, at its sole discretion, the facility's operating and capital budgets. The Hospital retains independent control over and physical possession of the facility's books and records. The Hospital retains independent control over and physical possession of the facility's operating policies and procedures. The Hospital retains full authority and responsibility for, and control over, the operations and management of the facility. The Hospital retains the right and authority to independently adopt, approve and enforce, in its sole discretion, policies affecting the facility's delivery of health care services. The Hospital retains the right to independently adopt, approve and enforce, at its sole discretion, the disposition of assets and authority to incur debts. The Hospital retains the right to approve, at its sole discretion, contracts for administrative services, management and/or clinical services. The Hospital retains the right to approve, at its sole discretion, any facility debt. The Hospital retains the right to approve, at its sole discretion, settlements of administrative proceeding or litigation to which the facility is a party. No powers specifically reserved to the Hospital may be delegated to, or shared by, the Contractor or any other person. In addition, if there is any disagreement between the parties to this Agreement regarding control between the Hospital and the Contractor, the terms of this Section shall control.

EXHIBIT A-1:
State University of New York Affirmative Action Clauses
After this page

1. DEFINITIONS. The following terms shall be defined in accordance with Section 310 of the Executive Law:

STATE CONTRACT herein referred to as "State Contract", shall mean: (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars (\$25,000.00), whereby the State University of New York ("University") is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or a combination of the foregoing, to be performed for, or rendered or furnished to the University; (b) a written agreement in excess of one hundred thousand dollars (\$100,000.00) whereby the University is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; (c) and (d) a written agreement in excess of one hundred thousand dollars (\$100,000.00) whereby the University as an owner of a state assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project.

SUBCONTRACT herein referred to as "Subcontract", shall mean any agreement for a total expenditure in excess of \$25,000 providing for services, including non-staffing expenditures, supplies or materials of any kind between a State agency and a prime contractor, in which a portion of the prime contractor's obligation under the State contract is undertaken

or assumed by a business enterprise not controlled by the prime contractor.

WOMEN-OWNED BUSINESS ENTERPRISE herein referred to as "WBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more United States citizens or permanent resident aliens who are women; (b) an enterprise in which the ownership interest of such women is real, substantial and continuing; (c) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed fifteen million dollars (\$15,000,000), as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

A firm owned by a minority group member who is also a woman may be certified as a minority-owned business enterprise, a women-owned business enterprise, or both, and may be counted towards either a minority-owned business enterprise goal or a women-owned business enterprise goal, in regard to any Contract or any goal, set by an agency or authority, but such participation may not be counted towards both such goals. Such an enterprise's participation in a Contract may not be divided between the minority-owned

business enterprise goal and the women-owned business enterprise goal.

MINORITY-OWNED BUSINESS ENTERPRISE herein referred to as "MBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more minority group members; (b) an enterprise in which such minority ownership is real, substantial and continuing; (c) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed fifteen million dollars (\$15,000,000.00), as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

MINORITY GROUP MEMBER shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (a) Black persons having origins in any of the Black African racial groups; (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race; (c) Native American or Alaskan native persons having origins in any of the original peoples of North America. (d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East

Asia, the Indian Subcontinent or Pacific Islands.

CERTIFIED ENTERPRISE OR BUSINESS shall mean a business verified as a minority or women-owned business enterprise pursuant to section 314 of the Executive Law. A business enterprise which has been approved by the New York Division of Minority & Women Business Development ("DMWBD") for minority or women-owned enterprise status subsequent to verification that the business enterprise is owned, operated, and controlled by minority group members or women, and that also meets the financial requirements set forth in the regulations.

2. TERMS. The parties to the attached State Contract agree to be bound by the following provisions which are made a part hereof (the word "Contractor" herein refers to any party other than the University:

1(a) Contractor and its Subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(b) Prior to the award of a State Contract, the Contractor shall submit an equal employment opportunity (EEO) policy statement to the University within the time frame established by the University.

(c) As part of the Contractor's EEO policy statement, the Contractor, as a precondition to entering into a valid and binding State Contract, shall agree to the following in the performance of the State Contract: (i) The Contractor will not discriminate against any employee or applicant for

employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and 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; (ii) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the State Contract, all qualified applicants will be afforded equal employment opportunities without discrimination; (iii) At the request of the University the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate, and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

(d) Form 108 - Staffing Plan To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

(e) Form 112 - Workforce Employment Utilization Report ("Workforce Report")

(i) Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to SUNY of any changes to the previously submitted Staffing Plan. This information is to be submitted on a

quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

(ii) Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.

(iii) In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or

subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

(f) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors 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.

(g) The Contractor shall include the provisions of this section in every Subcontract in such a manner that the requirements of the provisions will be binding upon each Subcontractor as to work in connection with the State Contract, including the requirement that Subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and, when requested, provide to the Contractor information on the ethnic background, gender, and Federal occupational categories of the employees to be utilized on the State Contract.

(h) To ensure compliance with the requirements of this paragraph, the University shall inquire of a Contractor whether the work force to be utilized in the performance of the State Contract can be separated out from the Contractor's and/or Subcontractors' total work force and where the work of the State Contract is to be performed. For Contractors who are unable to separate the portion of their work force which will be utilized for the performance of this State Contract, Contractor shall provide reports describing its entire work force by the specified ethnic background, gender, and Federal Occupational Categories, or other appropriate categories which the agency may specify.

(i) The University may require the Contractor and any Subcontractor to submit compliance reports, pursuant to the regulations relating to their operations and implementation of their affirmative action or equal employment opportunity program in effect as of the date the State Contract is executed.

(j) If a Contractor or Subcontractor does not have an existing affirmative action program, the University may provide to the Contractor or Subcontractor a model plan of an affirmative action program. Upon request, the Director of

DMWBD shall provide a contracting agency with a model plan of an affirmative action program.

(k) Upon request, DMWBD shall provide the University with information on specific recruitment sources for minority group members and woman, and contracting agencies shall make such information available to Contractors

3. Contractor must provide the names, addresses and federal identification numbers of certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State Contract and a description of the Contract scope of work which the Contractor intends to structure to increase the participation by Certified minority- and/or women-owned business enterprises on the State Contract, and the estimated or, if known, actual dollar amounts to be paid to and performance dates of each component of a State Contract which the Contractor intends to be performed by a certified minority- or woman-owned business enterprise. In the event the Contractor responding to University solicitation is joint venture, teaming agreement, or other similar arrangement that includes a minority- and women owned business enterprise, the Contractor must submit for review and approval: i. the name, address, telephone number and federal identification of each partner or party to the agreement; ii. the federal identification number of the joint venture or entity established to respond to the solicitation, if applicable; iii. A copy of the joint venture, teaming or other similar arrangement which describes the percentage of interest owned by each party to the agreement and the value added by each party; iv. A copy of the mentor-protégé agreement between the parties, if applicable, and if not described in the joint venture, teaming agreement, or other similar arrangement.

4. PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN. The University shall determine whether Contractor has made conscientious and active efforts to employ and utilize minority group members and women to perform this State Contract based upon an analysis of the following factors:

(a) Whether Contractor established and maintained a current list of recruitment sources for minority group members and women, and whether Contractor provided written notification to such recruitment sources that contractor had employment opportunities at the time such opportunities became available.

(b) Whether Contractor sent letters to recruiting sources, labor unions, or authorized representatives of workers with which contractor has a collective bargaining or other agreement or understanding requesting assistance in locating minority group members and women for employment.

(c) Whether Contractor disseminated its EEO policy by including it in any advertising in the news media, and in particular, in minority and women news media.

(d) Whether Contractor has attempted to provide information concerning its EEO policy to Subcontractors with which it does business or had anticipated doing business.

(e) Whether internal procedures exist for, at a minimum, annual dissemination of the EEO policy to employees, specifically to employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions. Such dissemination may occur through distribution of employee policy manuals and handbooks, annual reports, staff meetings and public postings.

(f) Whether Contractor encourages and utilizes minority group members and women

employees to assist in recruiting other employees.

(g) Whether Contractor has apprentice training programs approved by the N.Y.S. Department of Labor which provides for training and hiring of minority group members and women.

(h) Whether the terms of this section have been incorporated into each Subcontract which is entered into by the Contractor.

5. PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES. Based upon an analysis of the following factors, the University shall determine whether Contractor has made good faith efforts to provide for meaningful participation by minority-owned and women-owned business enterprises which have been certified by DMWBD:

(a) Whether Contractor has actively solicited bids for Subcontracts from qualified M/WBEs, including those firms listed on the Directory of Certified Minority and Women-Owned Business Enterprises, and has documented its good faith efforts towards meeting minority and women owned business enterprise utilization plans by providing, copies of solicitations, copies of any advertisements for participation by certified minority- and women-owned business enterprises timely published in appropriate general circulation, trade and minority- or women-oriented publications, together with the listing(s) and date(s) of the publications of such advertisements; dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the University, with certified minority- and women-owned business enterprises, and the reasons why any such firm was not selected to participate on the project.

(b) Whether Contractor has attempted to make project plans and specifications available to firms who are not members of associations with

plan rooms and reduce fees for firms who are disadvantaged.

(c) Whether Contractor has utilized the services of organizations which provide technical assistance in connection with M/WBE participation.

(d) Whether Contractor has structured its Subcontracts so that opportunities exist to complete smaller portions of work.

e) Whether Contractor has encouraged the formation of joint ventures, partnerships, or other similar arrangements among Subcontractors.

(f) Whether Contractor has requested the services of the Department of Economic Development (DED) to assist Subcontractors' efforts to satisfy bonding requirement.

(g) Whether Contractor has made progress payments promptly to its Subcontractors.

(h) Whether the terms of this section have been incorporated into each Subcontract which is entered into by the Contractor. It shall be the responsibility of Contractor to ensure compliance by every Subcontractor with these provisions.

6. MWBE Utilization Plan.

(a) The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan prior to the execution of the contract.

(b) MWBE Utilization Plan (Form 7557-107).

Contractors are required to submit a Utilization Plan on Form 7557-107 with their bid or proposal. Complete the following steps to prepare the Utilization Plan:

- i. list NYS Certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State contract;
- ii. insert a description of the contract scope of work which the Contractor intends to structure to increase the

participation by NYS Certified minority- and women-owned enterprises on the State contract;

- iii. insert the estimated or, if known, actual dollar amounts to be paid to and performance dates of each component of a State contract which the Contractor intends to be performed by a NYS Certified minority- or women-owned business; and

(c) Any modifications or changes to the agreed participation by NYS Certified MWBEs after the Contract Award and during the term of the contract must be reported on a revised MWBE Utilization Plan and submitted to the SUNY University-wide MWBE Program Office.

(d) The University will review the MWBE Utilization Plan and will issue the Contractor a written notice of acceptance or deficiency within twenty (20) day of its receipt. A notice of deficiency shall include the:

- i. list NYS Certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State contract;
- ii. name of any MWBE which is not acceptable for the purpose of complying with the MWBE participation goals;
- iii. reasons why it is not an acceptable element of the Contract scope of work which the MWBE Program Office has determined can be reasonably structured by the Contractor to increase the likelihood of participation in the Contract by MWBEs; and
- iv. other information which the MWBE Program Office determines to be relevant to the MWBE Utilization Plan.

(e) The Contractor shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the University a written remedy in response to the notice of deficiency.

i. If the written remedy that is submitted is not timely or is found to be inadequate, the University-wide MWBE Program Office shall notify the Contractor and direct the Contractor to submit, within five (5) business days, a request for partial or total waiver of MWBE participation goals on forms provided by the University-wide MWBE Program Office.

ii. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

(f) The University may disqualify a Contractor as being non-responsive under the following circumstances:

i. If a Contractor fails to submit a MWBE Utilization Plan;

ii. If a Contractor fails to submit a written remedy to a notice of deficiency in a MWBE Utilization Plan;

iii. If a Contractor fails to submit a request for waiver; or

iv. If the MWBE Program Office determines that the Contractor has failed to document Good Faith Efforts.

(g) Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.

(h) Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the

occurrence of such a material breach, SUNY shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

7. Waivers.

(a) For Waiver Requests Contractor should use (Form 7557-114) – Waiver Request.

(b) If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete the University shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

(c) If University, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the University may issue a notice of deficiency to the Contractor. The contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

8. MWBE Contractor Compliance Report.

Contractor is required to submit an MWBE Contractor Compliance Report (Form 7557-112) to the University by the 5th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract. Compliance Reports for construction contracts (Form 7557-110) must be submitted on a monthly basis.

9. GOALS. (a) GOALS FOR MINORITY AND WOMEN WORK FORCE PARTICIPATION.

(i) The University shall include relevant work force availability data, which is provided by the DMWBD, in all documents which solicit bids for State Contracts and shall make efforts to assist Contractors in utilizing such data to determine expected levels of participation for minority group members and women on State Contracts.

(ii) Contractor shall exert good faith efforts to achieve such goals for minority and women's participation. To successfully achieve such goals, the employment of minority group members and women by Contractor must be substantially uniform during the entire term of this State Contract. In addition, Contractor should not participate in the transfer of employees from one employer or project to another for the sole purpose of achieving goals for minority and women's participation.

(b) GOALS FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION.

For all State Contracts in excess of \$25,000.00 whereby the University is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or an combination of the foregoing or all State Contracts in excess of \$100,000.00 whereby the University is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, Contractor shall exert good faith efforts to achieve a participation goal of _____ percent (____%) for Certified Minority-Owned Business Enterprises and _____ percent (____%) for Certified Women-Owned Business Enterprises.

10. ENFORCEMENT. The University will be responsible for enforcement of each Contractor's compliance with these provisions. Contractor, and each Subcontractor, shall permit the University access to its books, records and accounts for the purpose of investigating and determining whether Contractor or Subcontractor is in compliance with the requirements of Article 15-A of the Executive Law. If the University determines that a Contractor or Subcontractor may not be in compliance with these provisions, the University may make every reasonable effort to resolve the issue and assist the Contractor or Subcontractor in its efforts to comply with these provisions. If the University is unable to resolve the issue of noncompliance, the University may file a complaint with the DMWBD.

Failure to comply with all of the requirements herein may result in a

finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, remedies or enforcement proceedings as allowed by the Contract.

11. DAMAGES FOR NON COMPLIANCE.

Where the University determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay liquidated damages to the University. Such liquidated damages shall be calculated as an amount equaling the difference between:

a. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and

b. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

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

EXHIBIT C
Retractable Sports Netting and Installation Per Specifications
Cost Worksheet

1. Equipment must be the same or equivalent to the items listed below.
2. If offering equivalent, compatible, and interchangeable equipment to the equipment per the specifications, the vendor must provide the following at no cost: all supporting documentation.
3. If offering an equivalent product, please provide the manufacture/vendor name.
4. If offering an equivalent product, please provide the equivalent product item number(s) and description(s) below.
5. Please input pricing for each line item and send the completed form along with your IFB response package to Soteris Tzitzis.

A. Retractable Barrier Sports Netting – Ball Fabrics – Product and all parts, materials (concrete, poles, etc.) and accessories for installation:

Cost: \$ _____

B. Installation Labor:

Cost: \$ _____

Total A & B: \$ _____

If offering equivalent, complete below.

C: If offering equivalent, compatible, and interchangeable equipment to the equipment per the specifications: Provide full description and supporting documentation that it meets or exceeds specified in Parts 1 and 2 of specifications. Product and all parts, materials (concrete, poles, etc.) and accessories for installation:

Manufacturer/ Vendor Name: _____

Cost: \$ _____

D. Installation Labor:

Cost: \$ _____

Total C & D: \$ _____

Authorized Signature: _____

Date: _____