

**Business of the Village Board
Village of Saranac Lake**

SUBJECT: SDA Water Project Contract

DATE: 3-24-2025

DEPT OF ORIGIN: Village Manager

BILL # 32-2025

DATE SUBMITTED: 3-20-2025

EXHIBITS: _____

APPROVED AS TO FORM:

Village Attorney

Village Administration

EXPENDITURE
REQUIRED

AMOUNT
BUDGETED

APPROPRIATION
REQUIRED:

Resolution to authorize the Village Manager to contract with Suozzo, Doty, and Associates (SDA) and approve funding source (#252) for Professional Services for the Water System Treatment Project (WTP)

APPROVAL OF RESOLUTION

MOVED BY: Ryan SECONDED BY: Scollin

VOTE ON ROLL CALL:

MAYOR WILLIAMS

yes

TRUSTEE BRUNETTE

yes

TRUSTEE RYAN

yes

TRUSTEE SCOLLIN

yes

TRUSTEE WHITE

absent

RESOLUTION TO AUTHORIZE THE VILLAGE OF SARANAC LAKE TO CONTRACT WITH SUOZZO, DOTY,
AND ASSOCIATES (SDA) AND APPROVE FUNDING SOURCE FOR PROFESSIONAL SERVICES CONTRACT
FOR THE WATER TREATMENT SYSTEM PROJECT

WHEREAS, SDA will perform the professional engineering services and assist the Village with the NYSEFC funded Water Treatment System Capital Project, and,

WHEREAS, there are budgetary appropriations necessary to cover costs associated with these professional services, and,

WHEREAS, the appropriation of \$312,000 of the water unreserved fund to the General Fund Capital Project Fund (#252) is necessary to cover the work related to the Water Treatment System Project by SDA.

THEREFORE, BE IT RESOLVED, the Village of Saranac Lake Board of Trustees approves the contract with SDA and authorizes the transfer of \$312,000 to the Capital Project Fund (#252).



**Suozzo, Doty
& Associates**
PROFESSIONAL ENGINEERING, PLLC

Lake Placid Office
2051 Saranac Ave, Suite 204, Lake Placid, NY 12946
(518) 240-6293
www.sdaplnc.com

Water Treatment System Proposal

March 24, 2025

Village Board of Trustees,

As part of the agenda for tonight is a request for SDA's contract for the next phase of the water project. During this phase SDA plans to complete the preliminary design of the water treatment of McKenzie Pond, which includes identifying the proposed equipment, providing schematic drawings of proposed building upgrades, and most importantly includes the piloting of the proposed filters. We have also included additional time to assist with grant applications and bring three water mains (TBD) to a 10% design level.

The pilot study involves bringing a mobile version of the filter system to be used in the final treatment plant on a trailer (51' long) to the Village. The water from McKenzie Pond is pumped through the filters to simulate the real-world application. Ongoing testing occurs throughout the study, which lasts about three weeks. The test results are then submitted to NYSDOH for approval which allows the project to move into the next stages.

Our proposal includes our time, the rental and operations of the pilot study, as well as the lab fees for testing and the electrical hookup. There may be some additional, relatively minor costs for connecting the water to the system which we are still working to determine.

There are two locations where we can place the trailer during the study. The first one is in approximately three parking spaces on Main St in front of 17 Main Street. The second option is to utilize the parking lot at 3 Main Street. We realize that both of these will cause an inconvenience, but we need to locate the trailer near a ready power supply, the Village's sewer system, and near the water supply. We reviewed other locations on Pine Street and near McKenzie Pond itself, but these both only satisfy 2 of the 3 requirements. The parking space location on Main Street requires a shorter power cord and water piping and will be slightly cheaper for the electrical and water installations but it is likely more in the way. The pilot study will occur in late August or early September. We would appreciate the Board's opinion on which of the two options is preferable.

As a reminder, the total project cost is estimated at \$22,000,000 with a \$5,000,000 grant already secured, \$14,000,000 hardship loan. We are researching other grant opportunities, with one application planned to be submitted later this month. This project also includes the Lake Flower Ave's water main replacement and additional water mains around the Village to be completed if additional grant funds are obtained.

Sincerely,

Gregory Swart, Senior Engineer

With Offices in Bolton Landing and Lake Placid, New York



Certified
Women-Owned
Business Enterprise



March 24, 2025

Bachana Tsiklauri
Village Manager
39 Main Street, Suite 9
Saranac Lake, NY 12983

**RE: Village of Saranac Lake WTP and Distribution Upgrades - Professional Services Proposal R2
SDA Project #24-110**

Dear Mr. Tsiklauri,

Suozzo, Doty & Associates Professional Engineering, PLLC (SDA) thanks you for the opportunity to submit this professional services proposal for your consideration. This proposal is for the Water Treatment Plant (WTP) and distribution system portion of the Village's overall WTP and distribution system capital project (with the exception of design of the Lake Flower Avenue Main replacement, which was completed to the 30% level under a separate contract). The scope of work under this proposal includes preliminary engineering (30%) to initiate design and refine the final project scope, project cost estimates, and includes a pilot of filter technology to confirm treatment performance per NYSDOH requirements. We note that this proposed agreement is subject to the attached NYSEFC Mandatory State Revolving Fund Terms and Conditions, Effective October 1, 2023, and is made part of this contract.

PROJECT UNDERSTANDING

- The Village of Saranac Lake undertook an RFQ process for engineering services related to Lake Flower Avenue. SDA (formerly KSPE) was selected as part of the RFQ process. During the evaluation of Lake Flower Avenue, the Village requested an evaluation of options to meet water quality requirements.
- SDA completed a combined engineering report with three main components: (1) water treatment alternatives, (2) evaluating distribution system upgrades, and (3) the previous Lake Flower Avenue evaluation. The report was submitted to NYSEFC and resulted in the Village obtaining 0% financing and a \$5M WIIA grant.
- The Village of Saranac Lake undertook an RFQ process and selected SDA to provide engineering design and construction phase services for the overall project. Based upon initial review of the information provided in the RFQ and preliminary discussion with Village staff, the Village would like SDA to continue to provide services to the 30% design phase (which includes one pilot), and subsequent phases once the final scope is defined.

SCOPE OF SERVICES

Task 01: Preliminary Design

Under this task, SDA will complete preliminary design for the WTP and distribution systems as well as complete project management and administration tasks. As requested, the work will include the following:



SDA PROJECT 24-110

- Development of pilot protocol for surface water treatment and submission of same to NYSDOH for review and approval.
- Subcontract with Westech/Koester for one pilot unit (surface water) of proposed treatment process per the pilot protocol approved by NYSDOH. Services fall under option 2B. The following is noted with the pilot scope of services:
 - Pilot units are anticipated to be retained for a 4-week period, estimated August or September.
 - SDA will confirm the required setup to be completed by Village staff prior to Pilot Delivery, setup of pumps, and hoses by Village Staff.
 - SDA to coordinate with electrician to prove electrical connection for pilot operation.
 - SDA staff will be onsite for delivery and pilot setup (Estimated 16 hours).
 - SDA will contract with Westech for pilot operations per pilot proposal.
 - SDA will conduct weekly inspections with Village staff to review pilot operation (Estimated 32 hours).
 - SDA staff will attend removal of pilot.
 - SDA will prepare a pilot report summarizing results of the pilot study.
 - SDA will coordinate with Endyne Labs for testing of water samples.
- Investigate the internal condition of the existing transmission main between McKenzie Pond and Lake Flower. To accomplish this, SDA will subcontract with Arold Construction who will advance CCTV within the main. Prior to CCTV inspection, the main must be excavated, tapped at two locations, and main drained. Two days of evaluation are anticipated.
- SDA staff will provide 30% design documents and cost estimates for water treatment of Mackenzie Pond. Materials for each option shall include:
 - Process and Instrumentation Diagram
 - Overall Site Plan
 - Water Treatment Building Process Plan
 - Water Treatment Building Floor Plan
 - Water Treatment Building Elevations
 - Water Treatment Building Render Plan
- SDA staff will provide 10% design materials and cost estimates for distribution system areas including: (1) Existing Transmission Main, (2) Rockledge Park Water Main and (3) Margaret Street Water Main. Materials for each option shall include:
 - Existing Conditions Plan
 - Proposed Conditions Plan
 - Piping Profile
- Attend eight (8) monthly design meetings with the Village to review project status and deliverables.
- Provide up to 72-hours at an average rate of \$155/HR to assist the Village in completing required funding program documents and coordination.



ASSUMPTIONS/LIMITATIONS

The following are excluded from this proposal:

- The Village will make available all locations and access for pilot testing, including existing design plans, technical specifications and flow/loading data. Village to also assist with pilot setup, piping and connections, and deliverables.
- SDA has been retained for providing a pilot study for the well system, final design, bidding, construction administration, and project representative services. The full scope, fee and schedule of these services is to be defined at a later date and will be subject to a separate proposal.
- Survey, Lead and Asbestos Testing, Archeological, Geotechnical work will be provided under the next phase of design.
- All assumptions and limitations listed in subcontracts and pilot programs apply to this proposal/contract.

PROFESSIONAL SERVICES FEE AND COMPENSATION

SDA will perform the above-listed professional services in accordance with the fees and schedule depicted in the Professional Services Fee Schedule. **Pilot related services will be billed to Village at time of pilot procurement per subcontract conditions** Lump sum tasks will be billed monthly commensurate with work completed to date. Time and material tasks will be completed on a time and materials basis which will be billed in accordance with our discounted rate schedule in effect at the time of service. The budgets for Time and Materials tasks are estimates only, SDA will attempt to complete the tasks within the subject budgets, but an additional budget may be required to complete the noted services. SDA will not exceed any budget without prior authorization from you. Any direct expenses we incur (mileage, overnight mailings, document reproduction, etc.) are inclusive of the fee of Task 1.

Invoices will be submitted to the Client on a monthly basis. Payment shall be made to Suozzo, Doty & Associates Professional Engineering, PLLC within 30 calendar days of the date of invoice. A 1.5% finance charge will be applied to any invoice unpaid within 30 days. Checks shall be forwarded to Suozzo, Doty & Associates Professional Engineering, PLLC, 4607 Lake Shore Drive, P.O. Box 653, Bolton Landing, NY 12814.



PROFESSIONAL SERVICES FEE SCHEDULE

<u>Task</u>	<u>Lump Sum</u>	<u>T&M Estimate</u>	<u>Subcontractor Fee¹</u>	<u>Schedule²</u>
Task 01: Preliminary Design	\$180,000	---	(Pilot 1) - \$86,000 (Pipeline) - \$17,250 (Electrical) - \$11,500 (Laboratory Fees) - \$17,250	Start: 04/01/2025 End: 11/1/2025
Subtotal	\$180,000	---	\$132,000	
Total	\$312,000			

¹Subconsultant & reimbursable fees include 15% markup for SDA's administrative efforts.

² - Projected start and end dates are subject to change and are based on date from authorization to proceed. Because certain aspects of the project are outside of SDA's control (e.g., review agency schedules, actions, and approvals), SDA cannot guarantee completion of the project within these proposed schedules.

ATTACHMENTS

- Endorsement Page
- Standard Terms and Conditions
- NYSEFC Non-Construction Mandatory State Revolving Fund Terms and Conditions
- Pilot Proposal 1 – Trident Filter
- Proposal from Arnold for Transmission Main

CLOSING AND AGREEMENT

We thank you for this opportunity to work with the Village! If you find this proposal acceptable, please execute where indicated on the following page. If you have any questions or if you need additional information, please feel free to contact us directly at 518-240-6293. Thank you!

Sincerely,

Gregory Swart, PE, Project Manager

Mark Suozzo, PE, WTP Lead Engineer

cc: File



ENDORSEMENTS

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated below.

Engineer: Suozzo, Doty & Associates
Professional Engineering
PLLC, (SDA)

Client: Village of Saranac Lake

By: _____

By: _____

Print name: Kathleen A. Suozzo

Print name: _Bachana Tsiklauri_

Title: Managing Principal

Title: _Village Manager_

Date Signed: _____

Date Signed: _____

Address for SDA's receipt of notices:

Address for Client's receipt of notices:

P.O. Box 653, 4607 Lake Shore Drive

39 Main Street, Suite 9

Bolton Landing, NY 12814

Saranac Lake, NY 12983

Email for SDA's receipt of notices:

Email for Client's receipt of notices:

ksuozzo@sdapllc.com

manager@saranaclake.gov



ENGINEERS STANDARD TERMS AND CONDITIONS

- 1) **STANDARD OF CARE** Services shall be performed in accordance with the standard of professional practice ordinarily exercised by the applicable profession at the time and within the locality where the Services are performed. Professional services are not subject to, and Engineer cannot provide, any warranty or guarantee, express or implied, including warranties or guarantees contained in any uniform commercial code.
- 2) **TECHNICAL ACCURACY** Client shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Client-furnished information.
- 3) **CONSULTANTS** Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Client. Subject to the standard of care set forth in above, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- 4) **COMPLIANCE WITH LAWS, REGULATIONS, POLICIES, AND PROCEDURES** Engineer and Client shall comply with applicable Laws and Regulations. Engineer shall comply with any and all policies, procedures, and instructions of Client that are applicable to Engineer's performance of services under this Agreement and that Client provides to Engineer in writing, subject to the standard of care set forth above, and to the extent compliance is not inconsistent with professional practice requirements.

This Agreement is based on Laws and Regulations and Client-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Client's responsibilities or to Engineer's scope of services, times of performance, or compensation: (1) changes after the Effective Date to Laws and Regulations; (2) the receipt by Engineer after the Effective Date of Client-provided written policies and procedures; (3) changes after the Effective Date to Client-provided written policies or procedures.

Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Client agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.

Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements. Engineer's services do not include providing legal advice or representation.

- 5) **CHANGE OF SCOPE** The scope of Services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by the Client. For some projects involving conceptual or process development services, scope may not be fully definable during initial phases. As the Project progresses, facts discovered may indicate that scope must be redefined.

- 6) **SAFETY** Engineer has established and maintains corporate programs and procedures for the safety of its employees. Unless specifically included as a service to be provided under this Agreement, Engineer specifically disclaims any authority or responsibility for general job site safety and safety of persons other than Engineer employees.

While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Client's safety programs of which Engineer has been informed in writing.

- 7) **DELAYS** If events beyond the control of Client or Engineer, including, but not limited to, fire, flood, explosion, riot, strike, war, process shutdown, act of God or the public enemy, and act or regulation of any government agency, result in delay to any schedule established in this Agreement, such schedule shall be amended to the extent necessary to compensate for such delay. In the event such delay exceeds 60 days, Engineer shall be entitled to an equitable adjustment in compensation.
- 8) **TERMINATION/SUSPENSION** Either party may terminate this Agreement upon 30 days written notice to the other party. Client shall pay Engineer for all Services, rendered prior to termination, plus any expenses of termination.

In the event either party defaults in its obligations under this Agreement (including Client's obligation to make the payments required hereunder), the non-defaulting party may, after 7 days written notice stating its intention to suspend performance under the Agreement if cure of such default is not commenced and diligently continued, and failure of the defaulting party to commence cure within such time limit and diligently continue, suspend performance under this Agreement.

- 9) **OPINIONS OF CONSTRUCTION COSTS** Any opinion of construction costs prepared by Engineer is supplied for the general guidance of the Client only. Since Engineer has no control over competitive bidding or market conditions, Engineer cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to Client.
- 10) **RELATIONSHIP WITH CONTRACTORS** Engineer shall serve as Client's professional representative for the Services and may make recommendations to Client concerning actions relating to Client's other subcontractors, but Engineer specifically disclaims any authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected by Client.

Engineer shall not at any time supervise, direct, control, or have authority over any of the Client's subcontractors work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Contractor for the Project, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Contractor to comply with Laws and Regulations applicable to that Contractor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Client, Client's subcontractor, and/or Owner's Contractor.

Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.



- 11) **CONSTRUCTION REVIEW** For projects involving construction, Client acknowledges that under generally accepted professional practice, interpretations of construction documents in the field are normally required, and that performance of construction-related services by the design professional for the project permits errors or omissions to be identified and corrected at comparatively low cost. Client agrees to hold Engineer harmless from any claims resulting from performance of construction-related services by persons other than Engineer.

Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.

- 12) **INSURANCE** Engineer will maintain insurance coverage for Professional, Comprehensive General, Automobile, Worker's Compensation, and Employer's Liability in amounts in accordance with legal, and Engineer's business requirements. Certificates evidencing such coverage will be provided to Client upon request. For all projects the Client agrees to make the Engineer as an additional insured on its policies related to the project. For projects involving construction, Client agrees to require the Owner's construction contractor, if any, to include Engineer as an additional insured on its policies relating to the Project. Engineer's coverages referenced above shall, in such case, be excess over Client's or Owner's Contractor's primary coverage.

- 13) **HAZARDOUS MATERIALS** Hazardous materials may exist at a site where there is no reason to believe they could or should be present. Engineer and Client agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work. Engineer agrees to notify Client as soon as practically possible should unanticipated hazardous materials or suspected hazardous materials be encountered. Client acknowledges and agrees that it shall report to the appropriate federal, state or local public agencies, as required, any conditions at the site that may present a potential danger to the public health, safety or the environment. Client shall make provisions for, or have existing agreements with Owner to execute any manifests or forms in connection with transportation, storage and disposal of hazardous materials resulting from the site or work on the site or shall authorize Engineer to execute such documents as Client's agent. Client waives any claim against Engineer and agrees to defend, indemnify, and save Engineer harmless from any claim or liability for injury or loss arising from Engineer's discovery of unanticipated hazardous materials or suspected hazardous materials.

- 14) **INDEMNITIES** To the fullest extent permitted by law, Client and Engineer each agree to indemnify and hold the other harmless, and their respective officers, employees, agents, and representatives, from and against liability for all claims, losses, damages, and expenses, including reasonable attorneys fees, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors, or omissions. In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of Client and Engineer, they shall be borne by each party in proportion to its negligence.

- 15) **LIMITATIONS OF LIABILITY** No employee or agent of Engineer shall have individual liability to Client, Owner, or Project Contractor. Client agrees that, to the fullest extent permitted by law, Engineer's total

liability to Client for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any causes including, but not limited to, Engineer's negligence, errors, omissions, strict liability, or breach of contract and whether claimed directly or by way of contribution shall ~~not exceed the total compensation received by ENGINEER under this Agreement, or be limited in the aggregate to the amount of Engineer's insurance or if Client desires a limit of liability greater than that provided above, Client and Engineer shall include as an attachment to this Agreement the amount of such limit and the additional compensation to be paid to Engineer for assumption of such additional risk.~~

IN NO EVENT AND UNDER NO CIRCUMSTANCES SHALL ENGINEER BE LIABLE TO CLIENT FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES.

- 16) **ACCESS** Client shall provide Engineer safe access to any premises necessary for Engineer to provide the Services.

- 17) **REUSE OF PROJECT DELIVERABLES** Reuse of any documents or other deliverables, including electronic media, pertaining to the Project by Client for any purpose other than that for which such documents or deliverables were originally prepared, or alteration of such documents or deliverables without written verification or adaptation by Engineer for the specific purpose intended, shall be at the Client's risk. Further, all title blocks and the Engineer's seal, if applicable, shall be removed if and when Client provides deliverables in electronic media to another entity. Client agrees that relevant analyses, findings and reports provided in electronic media shall also be provided in "hard copy" and that the hard copy shall govern in the case of a discrepancy between the two versions, and shall be held as the official set of drawings, as signed and sealed. Client shall be afforded a period of 30 days in which to check the hard copy against the electronic media. In the event that any error or inconsistency is found as a result of this process, Engineer shall be advised and the inconsistency shall be corrected at no additional cost to Client. Following the expiration of this 30-day period, Client shall bear all responsibility for the care, custody and control of the electronic media. In addition, Client represents that it shall retain the necessary mechanisms to read the electronic media, which Client acknowledges to be of only limited duration. Client agrees to defend, indemnify, and hold harmless Engineer from all claims, damages, and expenses, (including reasonable litigation costs), arising out of such reuse or alteration by Client or others acting through Client.

All Documents are instruments of service, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed.

- 18) **RECORDS RETENTION** Engineer shall maintain on file in legible form, for a period of three years following completion or termination of its services, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Client's request, Engineer shall provide a copy of any such item to Client at cost.

- 19) **PROPRIETARY INFORMATION** Information relating to the Project, unless in the public domain, shall be kept confidential by Client and Engineer and shall not be made available to third parties without written consent of the other party.



- 20) INDEPENDENT CONTRACTOR Engineer is an independent Contractor and will maintain complete control of and responsibility for its employees, agents, methods, and operations. Nothing contained in this Agreement will create any contractual relationship between The Owner and Engineer.
- 21) AMENDMENT This Agreement, upon execution by both parties hereto, can be amended only by a written instrument signed by both parties.
- 22) ASSIGNMENT Except for assignments (a) to entities which control, or are controlled by, the parties hereto or (b) resulting from operation of law, the rights and obligations of this Agreement cannot be assigned by either party without written permission of the other party. This Agreement shall be binding upon and inure to the benefit of any permitted assigns.
- 23) STATUTE OF LIMITATIONS To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims under this Agreement shall expire one year after Project completion.
- 24) DISPUTE RESOLUTION Parties shall attempt to settle disputes arising under this agreement by discussion between the parties senior representatives of management. If any dispute cannot be resolved in this manner, within a reasonable length of time, parties agree to attempt non-binding mediation or any other method of alternative dispute resolution prior to filing any legal proceedings.
- 25) NO WAIVER No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate any other section of this Agreement or operate as a waiver of any future default, whether like or different in character.
- 26) NO THIRD-PARTY BENEFICIARY Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall inure to the benefit of, any third party, including Client's contractors, if any.
- 27) SEVERABILITY The various terms, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.
- 28) AUTHORITY The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.
- 29) CONTROLLING LAW This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.
- 30) NOTICES Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt. Email notices shall be sent to the addresses listed on the signature page of the agreement.
- 31) SURVIVAL All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- 32) ACCRUAL OF CLAIMS To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.
- 33) ENTIRE AGREEMENT, ATTACHMENTS, AND WRITTEN AMENDMENTS This Agreement, including the Attachments hereto and all Change Orders, contain the entire agreement among the parties with respect to the subject matter hereof; all representations, promises and prior or contemporaneous understandings among the parties with respect to the subject matter hereof are merged into and expressed in this instrument and such documents; and any and all prior agreements among the parties with respect to the subject matter hereof are hereby terminated and canceled. This Agreement may be amended only by an instrument in writing duly signed by or on behalf of the parties hereto.
- 34) COMPENSATION Engineer will prepare and submit invoices to the Client on a monthly basis. Client shall make payment to the Engineer within 30 calendar days of the date of the invoice.
- 35) ADDITIONAL SERVICES Additional services can be provided if deemed necessary and approved by the Client. Compensation for additional services can be negotiated as needed. Additional work will be approved by the Client prior to the execution of the additional tasks.
- Services not indicated or included in the above-listed scope of services or which are subsequently requested, either verbally or in writing, will be considered additional services. The fee will be based upon either a mutually agreed fixed fee or an hourly basis at rates in effect at the time the services are performed, plus subcontracts and reimbursable expenses as outlined in the Rate Schedule for the year in which the work is being performed.



Mandatory State Revolving Fund Terms and Conditions

**For Contracts Funded with the NYS Clean Water State Revolving Fund
or Drinking Water State Revolving Fund**

Identify Contract Type prior to Advertisement for Bid:

☐ **Construction**

- ☐ **Treatment Works and Drinking Water Projects**
- ☐ **Non-Treatment Works**

☐ **Non-Construction**

Effective October 1, 2023

**New York State Environmental Facilities Corporation
625 Broadway, Albany, NY 12207-2997
P: (518) 402-6924
www.efc.ny.gov**

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INTRODUCTION

The terms and conditions below must be incorporated verbatim into contracts receiving SRF financial assistance. Additional information relating to each of the requirements is included in the companion guidance document.

REQUIRED CONTRACT LANGUAGE

COMMONLY USED TERMS

The following commonly used terms are defined herein as follows:

Broker means a firm that does not itself perform, manage or supervise the work of its contract or subcontract in a manner consistent with the normal business practices for contractors or subcontractors in its line of business.

Construction means the process by which a contractor or subcontractor builds, alters, repairs, remodels, improves or demolishes infrastructure.

Contract means an agreement between a Recipient and a Contractor.

Contractor means all bidders, prime contractors, non-construction service providers, and consultants as hereinafter defined, unless specifically referred to otherwise.

Manufacturer means a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.

MBO is designated and employed by the Recipient as a Minority Business or Compliance Officer responsible for MWBE/DBE/SDVOB/EEO reporting and compliance.

Non-Construction Provider means any individual or business enterprise that provides one or more of the following: legal, engineering, financial advisory, technical, or other professional services, supplies, commodities, equipment, materials, or travel.

Recipient means the party, other than EFC, to a grant agreement or a project finance agreement with EFC through which funds for the payment of amounts due thereunder are being paid in whole or in part. Responsible through Project Finance Agreement (PFA) to comply with EFC requirements.

State means the State of New York.

Subcontract means an agreement between a Contractor and a Subcontractor.

Subcontractor means any individual or business enterprise that has an agreement, purchase order, or any other contractual arrangement with a Contractor.

Supplier means a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

Treatment Works is defined in Clean Water Act (CWA) Section 212. This does not include nonpoint source projects as defined in CWA Section 319 and estuary management program projects as defined in CWA Section 320.

SECTION 1 FEDERAL ARCHITECTURAL AND ENGINEERING PROCUREMENT REQUIREMENTS

Any Architectural and Engineering (A/E) services for all CWSRF projects and for DWSRF projects receiving federal grant are required to be procured in compliance with 40 USC 1101 et. seq., and 48 CFR Part 36 Subpart 36.6. The Recipient must certify compliance to receive financing. Disregard this section if it does not apply to this Contract.

SECTION 2 REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR WOMEN AND MINORITY GROUP MEMBERS

The Equal Employment Opportunities requirements of this section apply to all Contracts and Subcontracts, with the exception of: (1) the requirements under Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A which apply only to construction Contracts and Subcontracts; and (2) the Federal Affirmative Action Regulations requirements which apply only to construction Contracts and Subcontracts greater than \$10,000.

The Minority- and Women- Owned Business Enterprises ("MWBE") participation requirements of this section apply to the Contracts Meeting Article 15-A Thresholds.

Contracts Meeting Article 15-A Thresholds means Contracts or Subcontracts meeting the thresholds under New York State Executive Law Article 15-A as follows:

- a) Non-Construction Provider Contracts greater than \$25,000;
- b) Non-Construction Provider Contracts that are initially under \$25,000 but subsequent change orders or contract amendments increase the Contract value to above \$25,000;
- c) Construction Contracts greater than \$100,000; and,
- d) Construction Contracts that are initially under \$100,000 but subsequent change orders or contract amendments increase the Contract value to above \$100,000.

Disregard this section if it does not apply to this Contract or Subcontract.

I. General Provisions

- A. Contractors and Subcontractors are required to comply with the following provisions:
 1. New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 ("MWBE Regulations") for all State Contracts meeting Article 15-A thresholds.
 2. Title VI of the Civil Rights Act of 1964 and 40 CFR Part 7 ("Title VI") for any program or activity receiving federal financial assistance, as those terms are defined therein.
 3. Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A ("Title VII") for construction Contracts related to any government programs providing federal financial assistance, as those terms are defined therein.
 4. 41 CFR Part 60-4 ("Federal Affirmative Action Regulations") for federal or federally assisted construction Contracts in excess of \$10,000, as those terms are defined therein.
 5. Section 504 of the Rehabilitation Act of 1973 ("Section 504") for any program or activity receiving federal financial assistance, as those terms are defined therein.
 6. The Age Discrimination Act of 1975 ("Age Discrimination Act") for any program or activity receiving federal financial assistance, as those terms are defined therein.

7. Section 13 of the Federal Water Pollution Control Act ("Clean Water Act") Amendments of 1972 ("Section 13") for any program or activity receiving federal financial assistance under the Clean Water Act, as those terms are defined therein.
- B. Upon request from the Recipient and/or EFC, Contractor will provide complete responses to inquiries and all MWBE and EEO records available within a reasonable time or as otherwise determined by EFC.
- C. Failure to comply with all of the requirements herein may result in a finding by the Recipient that the Contractor is non-responsive, non-responsible, and/or has breached the Contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to subsection III(E) of this section, or enforcement proceedings as allowed by the Contract.
- D. If any terms or provisions herein conflict with Executive Law Article 15-A, the MWBE Regulations, Title VI, Title VII, or Federal Affirmative Action Regulations, such law and regulations shall supersede these requirements.

II. Equal Employment Opportunities (EEO)

- A. Each Contractor and Subcontractor performing work on the Contract shall undertake or continue existing EEO 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, EEO 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. The Contractor shall comply with the provisions of the Human Rights Law (Executive Law Article 15), Title VI, Title VII, the Federal Affirmative Action Regulations, Section 504, Age Discrimination Act, Section 13, and all other State and Federal statutory and constitutional non-discrimination provisions. The 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.
- C. Contractors and Subcontractors shall have instituted grievance procedures to assure the prompt and fair resolution of complaints when a violation of Title VI of the Civil Rights Act of 1964 or Title 40 CFR Part 7 is alleged.
- D. Pursuant to 40 CFR § 7.95, the Contractor shall display a copy of the EEO notice at the project site in a visible location. The notice shall accommodate individuals with impaired vision or hearing and should be provided in languages other than English where appropriate. The notice must also identify the employee responsible for its EEO compliance. See guidance document for sample notice.
- E. The Contractor will include the provisions of Subdivisions II(A) and II(C) in every Subcontract in such a manner that the requirements of these subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.
- F. The Contractor and Subcontractor will comply with the requirements of 41 CFR § 60-1.4(b) and (c), and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor and Subcontractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

- G. **For construction contracts in excess of \$10,000**, the Contractor and Subcontractor will comply with the Affirmative Action Regulations and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor place affirmative action goals on Contracts and Subcontracts, as established by the United States Department of Labor. See guidance document for goals.
- H. Pursuant to 41 CFR Section 60-1.7 for federally assisted construction Contracts, Contractor and Subcontractor will annually file an EEO-1 Report with the Joint Reporting Committee for the Office of Federal Contract Compliance Programs (OFCCP) and the Equal Employment Opportunity Commission (EEOC) according to the instructions provided at <https://www.eeoc.gov/employers/eo-1-survey/eo-1-instruction-booklet> , if Contractor or Subcontractor:
1. Is not exempt from compliance pursuant to 41 CFR § 60-1.5;
 2. Has 50 or more employees;
 3. Is a prime Contractor or first tier Subcontractor; or Subcontractor below the first tier which performs construction work at the site of construction; and
 4. Has a Contract, Subcontract, or purchase order amounting to \$50,000 or more.

III. Business Participation Opportunities for MWBEs

Applicable to Contracts Meeting Article 15-A Thresholds

A. Contract Goals

1. **New York State certified MWBE participation goals for this contract are 20%.** For projects funded from the sources listed below, the goals may be achieved through any combination of MBE and/or WBE participation.
 - a. CWSRF, DWSRF & Green Innovation Grant Program (GIGP).
 - b. NYS Water Infrastructure Improvement Act Grants that are also receiving EFC financing.
 - c. NYS Intermunicipal Grants that are also receiving EFC financing.
2. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section III-A hereof, the Contractor should reference the directory of New York State Certified MWBEs found at <https://ny.newnycontracts.com>.
3. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as defined in 5 NYCRR § 140.1, may be applied towards achievement of applicable MWBE participation goals.
 - a. For construction and construction-related services Contracts or Subcontracts, the portion of the Contract or Subcontract with an MWBE serving as a Supplier, and so designated in ESD's Directory, that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60% of the total value of the Contract or Subcontract. The portion of a Contract or Subcontract with an MWBE serving as a Broker, as denoted by NAICS code 425120, that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.
 - b. For Non-Construction Provider Contracts or Subcontracts, the portion of a Contract or Subcontract with an MWBE serving as a Broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract.
4. Where MWBE Contract Goals have been established herein, pursuant to 5 NYCRR § 142.8, the Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as Subcontractors or Suppliers in the performance of the Contract.

5. In accordance with Section 316-a of Article 15-A and 5 NYCRR § 142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of Contract and the Contractor shall be liable to the Recipient for liquidated or other appropriate damages, as set forth herein.

B. MWBE Utilization Plan

1. The Contractor represents and warrants that Contractor has submitted a completed copy of the MWBE Utilization Plan with all required bid forms to the MBO no later than the execution date of this Contract.
2. The 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 section.
3. The 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, the Recipient shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is not responsive.
4. The Contractor must report any changes to the Utilization Plan after Contract award and during the term of the Contract to the MBO. The Contractor shall indicate the changes to the MBO in the Monthly MWBE Contractor Compliance Report immediately following the change. At EFC's discretion, an updated MWBE Utilization Plan form and good faith effort documentation may be required to be submitted. When a Utilization Plan is revised due to execution of a change order, the change order should be submitted to the MBO with the Monthly MWBE Contractor Compliance Report or revised Utilization Plan.
5. The Contractor shall submit copies of all fully executed Subcontracts, agreements, and purchase orders that are referred to in the MWBE Utilization Plan to the MBO within 30 days of their execution.

C. Request for Waiver

1. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver to the MBO documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request aligns with the documentation identified on the Request for Waiver form, the MBO shall forward the request to EFC for evaluation, and EFC will issue a written notice of acceptance or denial within twenty (20) days of receipt.
2. If the MBO, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals and no waiver has been issued in regards to such non-compliance, the Recipient 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.

D. Monthly MWBE Contractor Compliance Report ("Monthly MWBE Report")

1. The Contractor agrees to submit a report to the MBO by the third business day following the end of each month over the term of this Contract documenting the payments made and the progress towards achievement of the MWBE goals of the Contract. The Monthly MWBE Report must be supplemented with proof of payment by the Contractor to its Subcontractors (e.g., copies of both sides of a cancelled check) and proof that Subcontractors have been paid within 30 days of receipt of payment from the Recipient. The final Monthly MWBE Report must reflect all Utilization Plan revisions and change orders.

E. Liquidated Damages - MWBE Participation

1. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, if it has been determined by the Recipient or EFC that the Contractor has willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to Recipient liquidated damages or other appropriate damages, as specified herein and as determined by the Recipient or EFC.
2. Liquidated damages shall be calculated as an amount not to exceed the difference between:
 - a. All sums identified for payment to MWBEs had the Contractor achieved the approved MWBE participation goals; and,
 - b. All sums actually paid to MWBEs for work performed or materials supplied under this Contract.
3. The Recipient and EFC reserve the right to impose a lesser amount of liquidated damages than the amount calculated above based on the circumstances surrounding the Contractor's non-compliance.
4. In the event a determination has been made by the Recipient or EFC which requires the payment of damages identified herein and such identified sums have not been withheld, Contractor shall pay such damages to the Recipient within sixty (60) days after they are assessed unless prior to the expiration of such sixtieth day the Contractor has filed a complaint with the Empire State Development Corporation – Division of Minority and Women's Business Development ("ESD") pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the damages shall be payable if the Director of ESD renders a decision in favor of the Recipient.

**SECTION 3 PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE
CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES**

The requirements of this section apply to all Construction Contracts and Subcontracts

- A. New York State Veterans' Service Law Article 3, and 9 NYCRR Part 252, and/or any other related regulations promulgated thereto, provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. New York State recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of EFC Contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as Subcontractors or Suppliers, as protégés, or in other partnering or supporting roles.

- B. Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <http://ogs.ny.gov/Core/SDVOBA.asp>.
- C. Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

SECTION 4 AMERICAN IRON AND STEEL (AIS) REQUIREMENT

The requirements of this section apply to (1) all Construction Contracts and Subcontracts for DWSRF projects and CWSRF Treatment Works projects and (2) all Contracts for the purchase of iron and steel products for a DWSRF project or CWSRF Treatment Works project. Disregard this section if it does not apply to this Contract or Subcontract.

The Contractor shall submit with their bid or proposal documents an executed AIS Contractors Certification on the form attached hereto as [Attachment 2](#) acknowledging to and for the benefit of the Recipient of the Clean Water State Revolving Fund ("CWSRF") or the Drinking Water State Revolving Fund ("DWSRF") financial assistance that the Contractor understands the goods and services under this Agreement are being funded with monies made available by the New York State Environmental Facilities Corporation ("EFC") through the CWSRF or the DWSRF and that such funding is subject to certain statutory restrictions requiring that certain iron and steel products used in the project be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement.

The Contractor hereby represents and warrants that:

- (a) the Contractor has reviewed and understands the American Iron and Steel Requirement,
- (b) all of the iron and steel products covered by the American Iron and Steel Requirement used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and
- (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Recipient.

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Recipient to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Recipient resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EFC or any damages owed to the EFC by the Recipient). While the Contractor has no direct contractual privity with the EFC, as a lender to the Recipient for the funding of this project, the Recipient and the Contractor agree that the EFC is a third-party beneficiary and neither this paragraph, nor any other provision of this Agreement necessary to give this paragraph force or effect, shall be amended or waived without the prior written consent of the EFC.

SECTION 5 DAVIS-BACON (DB) PREVAILING WAGE REQUIREMENTS

The requirements of this section apply to all Construction Contracts and Subcontracts greater than \$2,000 for either DWSRF projects or CWSRF Treatment Works projects. Disregard this section if it does not apply to this Contract or Subcontract.

For Contracts in Excess of \$2,000:

1. Minimum Wages

- (i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis–Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (1)(ii) of this section) and the Davis–Bacon poster (WH–1321) shall be posted at all times by the Contractor and its Subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. The Davis–Bacon poster (WH-1321) can be found at <https://www.dol.gov/whd/regs/compliance/posters/davis.htm> . Wage determinations may be obtained from the US Department of Labor's website, <https://beta.sam.gov/> .

- (ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The contracting officer shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
1. The work to be performed by the classification requested is not performed by a classification in the wage determination;
 2. The classification is utilized in the area by the construction industry; and,
 3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.
- (C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.
- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (1) (ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

- (iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
 - (iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program *provided* that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis–Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
2. Withholding. The Recipient shall upon its own action or upon written request of the EPA Award Official or an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis–Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any Subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the Contract, the Recipient may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
3. Payrolls and basic records.
- (i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis–Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR § 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis–Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
 - (ii)(A) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Recipient. Such documentation shall be available on request of EFC or EPA. As to each payroll copy received, the Recipient shall provide written confirmation in a form satisfactory to EFC indicating whether or not the project is in compliance with the requirements of 29 CFR § 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/agencies/whd/government-contracts/construction/forms> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all Subcontractors. Contractors and Subcontractors shall

maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Recipient, for transmission to EFC, EPA if requested by EPA, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Contractor to require a Subcontractor to provide addresses and social security numbers to the prime Contractor for its own records, without weekly submission to the Recipient (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or Subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

1. That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;
2. That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The Contractor or Subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Recipient, EFC, EPA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or Subcontractor fails to submit the required records or to make them available, the Recipient, EFC, or EPA may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

4. Apprentices and trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job

site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or Subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

5. Compliance with Copeland Act Requirements. The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

6. Subcontracts. The Contractor or Subcontractor shall insert in any Subcontracts the clauses contained in 29 CFR § 5.5(a)(1) through (10) and such other clauses as the Recipient may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier Subcontracts. The prime Contractor shall be responsible for the compliance by any Subcontractor or lower tier subcontractor with all the Contract clauses in 29 CFR § 5.5.

7. Contract Termination: Debarment. A breach of the contract clauses in 29 CFR § 5.5 may be grounds for termination of the Contract, and for debarment as a Contractor and a Subcontractor as provided in 29 CFR § 5.12.

8. Compliance with Davis–Bacon and Related Act requirements. All rulings and interpretations of the Davis–Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by

reference in this Contract.

9. Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its Subcontractors) and the Recipient, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

(i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government Contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. § 1001.

For Contracts in Excess of \$100,000:

1. Overtime requirements. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. Withholding for unpaid wages and liquidated damages. The Recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or Subcontractor under any such Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4. Subcontracts. The Contractor or Subcontractor shall insert in any Subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier Subcontracts. The prime Contractor shall be responsible for compliance by any Subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

5. In any Contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR § 5.1, the Contractor or Subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen,

working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the records to be maintained under this paragraph shall be made available by the Contractor or Subcontractor for inspection, copying, or transcription by authorized representatives of the Recipient and the Department of Labor, and the Contractor or Subcontractor will permit such representatives to interview employees during working hours on the job.

SECTION 6 REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT

The requirements of this section apply to all Contracts and Subcontracts.

Contractor and any Subcontractors shall comply with, Subpart C of 2 CFR Part 180 as implemented and supplemented by 2 CFR Part 1532. The Contractor is not a debarred or suspended party under 2 CFR Part 180 or 2 CFR Part 1532, or 29 CFR § 5.12. Neither the Contractor nor any of its Subcontractors have contracted with, or will contract with, any debarred or suspended party under the foregoing regulations.

The Contractor and any Subcontractors have not been debarred from or deemed ineligible for Government Contracts or federally assisted Construction Contracts pursuant to Executive Order 12549.

The Contractor and any Subcontractors have not been deemed ineligible to submit a bid on or be awarded a public contract or subcontract pursuant to Article 8 of the State Labor Law, specifically Labor Law § 220-b. In addition, neither the Contractor nor any Subcontractors have contracted with, or will contract with, any party that has been deemed ineligible to submit a bid on or be awarded a public contract or subcontract under Labor Law § 220-b.

In addition, the Contractor and any Subcontractors have not been deemed ineligible to submit a bid and have not contracted with and will not contract with any party that has been deemed ineligible to submit a bid under Executive Law § 316.

SECTION 7 RESTRICTIONS ON LOBBYING

The requirements of this section apply to all Contracts and Subcontracts greater than \$100,000. Disregard this section if it does not apply to this Contract or Subcontract.

The Contractor and any Subcontractor bidding or proposing a Contract or Subcontract in excess of \$100,000 shall submit with their bid or proposal documents an executed Certification Regarding Lobbying pursuant to 40 CFR Part 34 ("Lobbying Certification") in the form attached hereto as [Attachment 3](#), consistent with the prescribed form provided in Appendix A to 40 CFR Part 34.

SECTION 8 CONSTRUCTION SIGNS

The requirements of this section apply to all EFC projects. Additional signage is required for projects receiving financing from the federal Bipartisan Infrastructure Law (BIL).

If Contractor is expected to provide an EFC Construction Sign, a specification will be included in the enclosed contract documents.

ATTACHMENTS (Required Forms)

Attachment 1 – EFC MWBE Utilization Plan



Environmental Facilities Corporation

NYS Environmental Facilities Corporation Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan

Instructions for Contractors & Service Providers:

Contractors and Service Providers must complete Sections 2 and 3. **Submit the completed, signed (electronic signature box checked and dated) form to the Recipient's Minority Business Officer (MBO) no later than the date of contract execution.** Incomplete forms will be found deficient. If more than 10 subcontractors are used, additional pages for Section 3 can be found on EFC's website.

If the prime contract is being performed by the parties to a Joint Venture, Teaming Agreement, or Mentor-Protégé Agreement that includes a certified MWBE, please contact EFC for assistance.

MWBE firms must be certified by the NYS Empire State Development Corporation (ESD) in order to be counted towards satisfaction of MWBE participation goals. The utilization of certified MWBEs for non-commercially useful functions may not be counted towards utilization of certified MWBEs in the Utilization Plan. Please note whether a firm is serving as a broker or supplier on the contract. A broker is denoted by NAICS code 425120 and is designated as a broker in [ESD's MWBE Directory](#). A supplier is denoted by a NAICS code beginning with 423 or 424, or a NIGP code that does not begin with the number 9 and is designated as a supplier in ESD's MWBE Directory. If a firm is serving as a broker, please additionally provide the percentage of the broker's commission on the contract.

See the [Mandatory Terms and Conditions](#) or consult your designated MBO for further guidance.

Instructions for Minority Business Officers (MBO):

The MBO must complete Section 1. Email the completed, signed (electronic signature box checked and dated) form to your EFC Program Compliance Specialist.

The subject heading of the email to the EFC Program Compliance Specialist should follow the format "UP, Project Number, Contractor." EFC will review the Utilization Plan and email the MBO an acceptance or denial.

**NYS Environmental Facilities Corporation
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan**

SECTION 1: MUNICIPAL INFORMATION				
Recipient/Municipality:			County:	
Project No.:	GIGP No.:	Contract ID:	Registration No. (NYC only):	
Minority Business Officer:		Email:	Phone #:	
Address of MBO:				
Electronic Signature of MBO: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.				Date:

SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION				
Firm Name:			Contract Type: ☐ Construction ☐ Other Services	
Prime Firm is Certified as: ☐ MBE ☐ WBE ☐ N/A ☐ Other: If certified, please include Prime information in Section 3. If dual certified, you must select either MBE <u>or</u> WBE.				
Address:		Phone #:	Fed. Employer ID #:	
Description of Work:			Email:	
Award Date:	Start Date:	Completion Date:	MWBE GOAL Total	PROPOSED MWBE Participation
Total Contract Amount: \$ MWBE Eligible Contract Amount: \$ (MWBE Goals are applied to this amount and includes all change orders, amendments, & specialty waivers)			Total: % \$	Total: % \$

**NYS Environmental Facilities Corporation
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan**

SECTION 3: MWBE SUBCONTRACTOR INFORMATION			
This Submittal is:	☐ The First/Original Utilization Plan ☐ Revised Utilization Plan #:		
NYS Certified M/WBE Subcontractor Info		Contract Amount:	For EFC Use:
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	Start Date:		
Select Only One: ☐ Broker % ____ ☐ Supplier ☐ N/A	Completion Date:		
Full Contract Amount: \$			
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	Start Date:		
Select Only One: ☐ Broker % ____ ☐ Supplier ☐ N/A	Completion Date:		
Full Contract Amount: \$			
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	Start Date:		
Select Only One: ☐ Broker % ____ ☐ Supplier ☐ N/A	Completion Date:		
Full Contract Amount: \$			
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	Start Date:		
Select Only One: ☐ Broker % ____ ☐ Supplier ☐ N/A	Completion Date:		
Full Contract Amount: \$			

**NYS Environmental Facilities Corporation
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan**

SECTION 3: M/WBE SUBCONTRACTOR INFORMATION continued			
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	Start Date:		
Select Only One: ☐ Broker % ____ ☐ Supplier ☐ N/A	Completion Date:		
Full Contract Amount: \$			
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	Start Date:		
Select Only One: ☐ Broker % ____ ☐ Supplier ☐ N/A	Completion Date:		
Full Contract Amount: \$			
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	Start Date:		
Select Only One: ☐ Broker % ____ ☐ Supplier ☐ N/A	Completion Date:		
Full Contract Amount: \$			
Business Name:	Fed. Employer ID#:		
Address:	Phone #:		
Scope of Work:	Email:		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	Start Date:		
Select Only One: ☐ Broker % ____ ☐ Supplier ☐ N/A	Completion Date:		
Full Contract Amount: \$			
SIGNATURE			
Electronic Signature of Contractor: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and that all MWBE subcontractors will perform a commercially useful function. Name (Please Type):			Date:

Attachment 2 – AIS Contractor’s Certification



Environmental Facilities Corporation

AIS CONTRACTOR CERTIFICATION
FOR CONSTRUCTION CONTRACTS FUNDED THROUGH
THE NYS CLEAN WATER STATE REVOLVING FUND, OVERFLOW AND STORMWATER GRANTS
OR
THE NYS DRINKING WATER STATE REVOLVING FUND VIA THE
NYS ENVIRONMENTAL FACILITIES CORPORATION

Project Title: _____

Contractor's Name: _____

Contract ID: _____

SRF Project No.: _____

SRF Recipient Name: _____

I certify that the iron and steel products permanently incorporated into the public water system or wastewater treatment works project under this construction contract will be and/or have been produced in the United States, in accordance with the requirements of the United States Environmental Protection Agency and 33 U.S.C. § 1388, 42 U.S.C. § 300j-12(a)(4) and any regulations promulgated thereunder. I will develop and maintain necessary documentation to demonstrate that the iron and steel products permanently incorporated into the project were produced in the United States, and make such documentation available to The New York State Environmental Facilities Corporation or their authorized representatives, upon request.

Signature: _____

Name (print): _____

Title: _____

Date: _____

Attachment 3 – Lobbying Certification



Environmental Facilities Corporation

**New York State Environmental Facilities Corporation
CERTIFICATION REGARDING LOBBYING
FOR
CONTRACTS, GRANTS, LOANS, AND
COOPERATIVE AGREEMENTS
40 CFR Part 34**

SRF Project No.: _____
Recipient: _____
Project Description: _____

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature: _____
Name: _____
Title: _____
Company Name: _____
Date: _____
Contract ID: _____

Proposal

Saranac Lake WTP – Trident Pilot

New York

Representative

Benjamin Girard

Koester Associates

Canastota, New York

BGirard@koesterassociates.com

(315) 360-4398

Contact

Butch Cardenas

bcardenas@westechwater.com

(801) 290-6461

Justin Roth

jroth@westechwater.com

(515) 268-8523

Proposal: 2530067.F_Trident_Rev1

Friday, February 21, 2025

WESTECH[®]

 **SWIRE WATER**



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Item A – R199 Trident HS2 Pilot Trailer



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Terms and Conditions



Supplemental Information



Lease Agreement
R199 Technical Data Sheet





Scope and Services Summary

Scope of Supply

Overall Summary

- Pilot Equipment (R199 Trident HS2 Pilot Trailer)
- Option A: Customer Operated Pilot w/ WesTech support
 - One Week Commissioning, Start Up, and Training Field Service Trip
 - One Week Operational Support Field Service Trip
 - Two Day Decommissioning Field Service Trip
 - Remote Operational Support
- Option B: Three Week Fully Staffed Pilot w/ Commissioning, Operations, and Decommissioning
- Pilot Report

Pilot Equipment Scope of Supply

- R199 Pilot skid, including
 - One (1) Adsorption Clarifier w/ media configuration
 - One (1) Mixed Media Filter w/ media configuration
 - All internal piping, valves, and electrical components
- Feed and effluent storage tanks
- Feed and process pumps
- Clarifier and filter headloss transmitters
- Feed, clarifier effluent, and filter effluent turbidimeters
- Feed and filter effluent particle counters
- Field water quality analysis equipment
- PLC control system w/ automatic clarifier flushes and filter backwashes
- Datalogging system

Setup, Operational Assistance, and Decommissioning

- Option A: Customer Operated
 - Technical representative for 3 days
 - Commissioning, start up, and operator training
 - Technical representative for 3 days
 - Operational support and process optimization
 - Technical representative for 2 days
 - Decommissioning



Scope and Services Summary

- Option B: WesTech Operated
 - Technical representative for 17 days
 - Commissioning, operations, and decommissioning

By Others

- Supply of all equipment, excluding pilot equipment
- Unloading and installation of equipment
- Secure level location to site pilot equipment
- Effluent and waste drain location by gravity flow
- Electrical connection to main power supply by a qualified electrician
- Interconnecting piping
- Utilities and chemical storage / supply
- Required local permitting
- Independent laboratory analysis cost/fees





Technical Proposal

Item A – R199 Trident HS2 Pilot Trailer

Design Overview

Parameter	Unit	Value / Description
Application	-	Surface Water Treatment with Trident Package System
Design Flow	gpm	12.0 – 20.0
Adsorption Clarifier® Area	ft ²	2.0
Adsorption Clarifier Loading Rate	gpm/ft ²	6.0- 10.0
Adsorption Clarifier Water Flush Rate	gpm	10.0
Adsorption Clarifier Air Flush Rate	scfm	8.0 – 10.0
Filter Area	ft ²	2.0
Filter Loading Rate	gpm/ft ²	3.0 – 5.0
Backwash Method	-	Air and Water
Low-Rate Backwash Water Loading Rate	gpm/ft ²	5.0
Low-Rate Backwash Water Flow Rate	gpm	10.0
High-Rate Backwash Water Loading Rate*	gpm/ft ²	12.0 – 15.0
High-Rate Backwash Water Flow Rate*	gpm	24.0 – 30.0
Airwash Loading Rate	scfm/ft ²	4.0
Airwash Flow Rate	scfm	8.0
Anticipated Availability	-	May 2025





Technical Proposal

Additional Services

On-Site Technical Assistance and Training

WesTech has included options for on-site technical services to commission the equipment, begin operation, train operators, optimize the process, and decommission the equipment or conduct full operations of the pilot equipment. All service visits will be completed by certified field technicians that are qualified and have experience working with WesTech equipment.

Any additional trips that the customer may request can be purchased at the standard WesTech daily rates plus travel and living expenses.

Option A: Customer Operated On-Site Technical Service

Service	Number of Trips	Number of Days
Commissioning, start up, and operator training	1	3
Operational support and process optimization	1	3
Decommissioning	1	2
Total Included Service	3	8

Option B: WesTech Operated On-Site Technical Service

Service	Number of Trips	Number of Days
Commissioning, operation, and decommissioning	1	17
Total Included Service	1	17

To supplement the above noted technical assistance, WesTech will provide the additional services.

- Technical support during WesTech office hours with a direct phone number to reach a qualified and involved project representative through the duration of the study.
- Weekly review and analysis of pilot data provided by the operators through the duration of the study.

Pilot Report and Recommendations

The pilot study data and laboratory results will be analyzed, and report generated after the conclusion of the pilot study. The report will present the findings of the pilot study and provide full-scale equipment recommendations. The report will be issued within two weeks of receipt of all laboratory results.



Technical Proposal

Option A: Customer Operated General Pilot Schedule

Week 1:

- Monday: Field Service Representative travels to site
- Tuesday: Begin commissioning
- Wednesday: Finalize commissioning and begin start up
- Thursday: Operator training
- Friday: Field Service Representative travels home

Week 2:

- Monday: Field Service Representative travels to site
- Tuesday-Thursday: Provide daily operational support and optimize the process
- Friday: Field Service Representative travels home

Week 3-Final Week:

- Daily operations by customer with remote support available

Final Week:

- Monday: Field Service Representative travels to site
- Tuesday-Wednesday: Finalize study and decommission
- Thursday: Field Service Representative travels home

Option B: WesTech Operated General Pilot Schedule

Week 1:

- Monday: Field Service Representative travels to site
- Tuesday: Begin commissioning
- Wednesday: Finalize commissioning and begin optimization
- Thursday-Sunday: Finalize optimization and conduct performance runs

Week 2:

- Monday-Sunday: Conduct performance runs

Week 3:

- Monday-Wednesday: Conduct performance runs
- Thursday: Decommission equipment
- Friday: Field Service Representative travels home



Clarifications and Exceptions

General Clarifications

Terms & Conditions: This proposal, including all terms and conditions contained herein, shall become part of any resulting contract or purchase order. Changes to any terms and conditions, including but not limited to submittal and shipment days, payment terms, and escalation clause shall be negotiated at order placement, otherwise the proposal terms and conditions contained herein shall apply.

Items not by WesTech: Electrical wiring, conduit or electrical equipment, interconnecting piping, valves, or fittings, lubricating oil or grease, shop or field painting, field welding, erection, detail shop fabrication drawings, sludge blow down controls, unloading, storage, concrete work, field service, (except as specifically noted).

Note: Any item not listed above to be furnished by others.

Exceptions

Not applicable





Commercial Proposal

Proposal Name: Saranac Lake WTP – Trident Pilot

Proposal Number: 2530067.F_GMF_Rev1

Friday, February 21, 2025

1. Bidder's Contact Information

Company Name	WesTech Engineering, LLC
Primary Contact Name	Butch Cardenas
Phone	(801) 265-1000
Email	bcardenas@westechwater.com
Address: Number/Street	3665 S West Temple
Address: City, State, Zip	Salt Lake City, UT 84115

2A. Firm Pricing Currency: USD

Scope of Supply- Customer Operated

A	R199 Trident HS2 Pilot Trailer Rental	\$9,600 / month
	Field Service (3 trips, 8 days)	\$22,500
	Pilot Mobilization and Project Execution	\$10,500
	Freight (Estimated, Billed at Actual)	\$15,000
	Taxes (sales, use, VAT, IVA, IGV, duties, import fees, etc.)	Not Included

Prices are valid for a period not to exceed 30 days from date of proposal.

Additional Field Service

Daily Rate (Applicable Only to Field Service Not Included in Scope)	\$1,350
---	---------

Pricing does not include field service unless noted in scope of supply but is available at the daily rate plus expenses. The greater of a two week notice or visa procurement time is required prior to departure date. Our field service policy is subject to change and can be provided upon request.

2B. Firm Pricing Currency: USD

Scope of Supply- WesTech Operated

A	R199 Trident HS2 Pilot Trailer Rental	\$2,300 / week
	Field Service (1 trips, 17 days)	\$31,000
	Pilot Mobilization and Project Execution	\$10,500
	Freight (Estimated, Billed at Actual)	\$15,000
	Taxes (sales, use, VAT, IVA, IGV, duties, import fees, etc.)	Not Included
	Optional- Weekly Extension (Includes Equipment Rental and Field Service Operations)	\$11,200

Prices are valid for a period not to exceed 30 days from date of proposal.

Additional Field Service

Daily Rate (Applicable Only to Field Service Not Included in Scope)	\$1,350
---	---------

Pricing does not include field service unless noted in scope of supply but is available at the daily rate plus expenses. The greater of a two week notice or visa procurement time is required prior to departure date. Our field service policy is subject to change and can be provided upon request.



Commercial Proposal

3. Payment Terms

Pilot Commissioning – Freight and Field Service	50%
Rental Period (collected at beginning of monthly cycle)	100% of monthly costs
Pilot Decommissioning – Freight and Field Service	100% with completion

All payments are net 30 days. Partial shipments are allowed. An approved Letter of Credit is required if Incoterms CIF, CFR, DAP, CIP, or CPT are applicable. Payment is required in full for all other Incoterms prior to international shipment. Other terms per WesTech proforma invoice. Please note that the advising bank must be named as: Wells Fargo Bank, International Department, 9000 Flair Drive, 3rd Floor, El Monte, California 91731, USA.

4. Schedule

Pilot Availability	May 2025
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*A purchase order or letter of intent is required to reserve the pilot. Please contact WesTech for an update on pilot availability before providing a purchase order or letter of intent, as pilots are offered on a first-come-first-served basis.

5. Freight

Domestic	FOB Shipping Point - Prepaid and Added (FSP-PPA)	
From	Final Destination	Number of Trucks / Containers
WesTech Shops	Saranac Lake, NY	Approximately 1





Terms and Conditions

Terms and Conditions appearing in any order based on this proposal which are inconsistent herewith shall not be binding on WesTech Engineering, LLC. The sale and purchase of equipment described herein shall be governed exclusively by the foregoing proposal and the following provisions:

- 1. SPECIFICATIONS:** WesTech Engineering, LLC is furnishing its standard equipment as outlined in the proposal and as will be covered by final approved drawings. The equipment may not be in strict compliance with the Engineer's/Owner's plans, specifications, or addenda as there may be deviations. The equipment will, however, meet the general intention of the mechanical specifications of these documents.
 - 2. ITEMS INCLUDED:** This proposal includes only the equipment specified herein and does not include erection, installation, accessories, nor associated materials such as controls, piping, etc., unless specifically listed.
 - 3. PARTIES TO CONTRACT:** WesTech Engineering, LLC is not a party to or bound by the terms of any contract between WesTech Engineering, LLC's customer and any other party. WesTech Engineering, LLC's undertakings are limited to those defined in the contract between WesTech Engineering, LLC and its direct customers.
 - 4. PRICE AND DELIVERY:** All selling prices quoted are subject to change without notice after 30 days from the date of this proposal unless specified otherwise. Unless otherwise stated, all prices are F.O.B. WesTech Engineering, LLC or its supplier's shipping points. All claims for damage, delay or shortage arising from such equipment shall be made by Purchaser directly against the carrier. When shipments are quoted F.O.B. job site or other designation, Purchaser shall inspect the equipment shipped, notifying WesTech Engineering, LLC of any damage or shortage within forty-eight hours of receipt, and failure to so notify WesTech Engineering, LLC shall constitute acceptance by Purchaser, relieving WesTech Engineering, LLC of any liability for shipping damages or shortages.
 - 5. PAYMENTS:** All invoices are net 30 days. Delinquencies are subject to a 1.5 percent service charge per month or the maximum permitted by law, whichever is less on all past due accounts. Pro rata payments are due as shipments are made. If shipments are delayed by the Purchaser, invoices shall be sent on the date when WesTech Engineering, LLC is prepared to make shipment and payment shall become due under standard invoicing terms. If the work to be performed hereunder is delayed by the Purchaser, payments shall be based on the purchase price and percentage of completion. Products held for the Purchaser shall be at the risk and expense of the Purchaser. Unless specifically stated otherwise, prices quoted are for equipment only. These terms are independent of and not contingent upon the time and manner in which the Purchaser receives payment from the owner.
 - 6. PAYMENT TERMS:** Credit is subject to acceptance by WesTech Engineering, LLC's Credit Department. If the financial condition of the Purchaser at any time is such as to give WesTech Engineering, LLC, in its judgment, doubt concerning the Purchaser's ability to pay, WesTech Engineering, LLC may require full or partial payment in advance or may suspend any further deliveries or continuance of the work to be performed by the WesTech Engineering, LLC until such payment has been received.
 - 7. ESCALATION:** If between the proposal date and actual procurement and through no fault of the Seller, the relevant cost of labor, material, freight, tariffs, and other Seller costs combined relating to the contract, increase by greater than 2.5% of the overall contract price, then the contract price shall be subject to escalation and increased. Such increase shall be verified by documentation and the amount of contract price escalation shall be calculated as either the actual increased cost to the Seller or, if agreed by the Parties, the equivalent increase of a relevant industry recognized third-party index, and in both cases without any additional profit or margin being added.
 - 8. APPROVAL:** If approval of equipment submittals by Purchaser or others is required, a condition precedent to WesTech Engineering, LLC supplying any equipment shall be such complete approval.
 - 9. INSTALLATION SUPERVISION:** Prices quoted for equipment do not include installation supervision. WesTech Engineering, LLC recommends and will, upon request, make available, at WesTech Engineering, LLC's then current rate, an experienced installation supervisor to act as the Purchaser's employee and agent to supervise installation of the equipment. Purchaser shall at its sole expense furnish all necessary labor equipment, and materials needed for installation.
- Responsibility for proper operation of equipment, if not installed by WesTech Engineering, LLC or installed in accordance with WesTech Engineering, LLC's instructions, and inspected and accepted in writing by WesTech Engineering, LLC, rests entirely with Purchaser; and any work performed by WesTech Engineering, LLC personnel in making adjustment or changes must be paid for at WesTech Engineering, LLC's then current per diem rates plus living and traveling expenses.
- WesTech Engineering, LLC will supply the safety devices described in this proposal or shown in WesTech Engineering, LLC's drawings furnished as part of this order but excepting these, WesTech Engineering, LLC shall not be required to supply or install any safety devices whether required by law or otherwise. The Purchaser hereby agrees to indemnify and hold harmless WesTech Engineering, LLC from any claims or losses arising due to alleged or actual insufficiency or inadequacy of the safety devices offered or supplied hereunder, whether specified by WesTech Engineering, LLC or Purchaser, and from any damage resulting from the use of the equipment supplied hereunder.
- 10. ACCEPTANCE OF PRODUCTS:** Products will be deemed accepted without any claim by Purchaser unless written notice of non-acceptance is received by WesTech Engineering, LLC within 30 days of delivery if shipped F.O.B. point of shipment, or 48 hours of delivery if shipped F.O.B. point of destination. Such written notice shall not be considered received by WesTech Engineering, LLC unless it is accompanied by all freight bills for said shipment, with Purchaser's notations as to damages, shortages and conditions of equipment, containers, and seals. Non-accepted products are subject to the return policy stated below.
 - 11. TAXES:** Any federal, state, or local sales, use or other taxes applicable to this transaction, unless specifically included in the price, shall be for Purchaser's account.



Terms and Conditions

12. TITLE: The equipment specified herein, and any replacements or substitutes therefore shall, regardless of the manner in which affixed to or used in connection with realty, remain the sole and personal property of WesTech Engineering, LLC until the full purchase price has been paid. Purchaser agrees to do all things necessary to protect and maintain WesTech Engineering, LLC's title and interest in and to such equipment; and upon Purchaser's default, WesTech Engineering, LLC may retain as liquidated damages any and all partial payments made and shall be free to enter the premises where such equipment is located and remove the same as its property without prejudice to any further claims on account of damages or loss which WesTech Engineering, LLC may suffer from any cause.

13. INSURANCE: From date of shipment until the invoice is paid in full, Purchaser agrees to provide and maintain at its expense, but for WesTech Engineering, LLC's benefit, adequate insurance including, but not limited to, builders risk insurance on the equipment against any loss of any nature whatsoever.

14. SHIPMENTS: Any shipment of delivery dates recited represent WesTech Engineering, LLC's best estimate but no liability, direct or indirect, is assumed by WesTech Engineering, LLC for failure to ship or deliver on such dates.

WesTech Engineering, LLC shall have the right to make partial shipments; and invoices covering the same shall be due and payable by Purchaser in accordance with the payment terms thereof. If Purchaser defaults in any payment when due hereunder, WesTech Engineering, LLC may, without incurring any liability therefore to Purchaser or Purchaser's customers, declare all payments immediately due and payable with maximum legal interest thereon from due date of said payment, and at its option, stop all further work and shipments until all past due payments have been made, and/or require that any further deliveries be paid for prior to shipment.

If Purchaser requests postponements of shipments, the purchase price shall be due and payable upon notice from WesTech Engineering, LLC that the equipment is ready for shipment; and thereafter any storage or other charge WesTech Engineering, LLC incurs on account of the equipment shall be for the Purchaser's account.

If delivery is specified at a point other than WesTech Engineering, LLC or its supplier's shipping points, and delivery is postponed or prevented by strike, accident, embargo, or other cause beyond WesTech Engineering, LLC's reasonable control and occurring at a location other than WesTech Engineering, LLC or its supplier's shipping points, WesTech Engineering, LLC assumes no liability in delivery delay. If Purchaser refuses such delivery, WesTech Engineering, LLC may store the equipment at Purchaser's expense. For all purposes of this agreement such tender of delivery or storage shall constitute delivery.

15. WARRANTY: WesTech Engineering, LLC warrants equipment it supplies only in accordance with the attached WesTech Warranty. This warranty is expressly given by WesTech and accepted by purchaser in lieu of all other warranties whether written, oral, express, implied, statutory or otherwise, including without limitation, warranties of merchantability and fitness for particular purpose. WesTech neither accepts nor authorizes any other person to assume for it any other liability with respect to its equipment. WesTech shall not be liable for normal wear and tear, corrosion, or any contingent, incidental, or consequential damage or expense due to partial or complete inoperability of its equipment for any reason whatsoever. The purchaser's exclusive and only remedy for breach of this warranty shall be the repair and or replacement of the defective part or parts within a reasonable time of WesTech's accepting the validity of a warranty claim made by the purchaser.

16. PATENTS: WesTech Engineering, LLC agrees that it will, at its own expense, defend all suits or proceedings instituted against Purchaser and pay any award of damages assessed against it in such suits or proceedings, so far as the same are based on any claim that the said equipment or any part thereof constitutes an infringement of any apparatus patent of the United States issued at the date of this Agreement, provided WesTech Engineering, LLC is given prompt notice in writing of the institution or threatened institution of any suit or proceeding and is given full control of the defense, settlement, or compromise of any such action; and Purchaser agrees to give WesTech Engineering, LLC needed information, assistance, and authority to enable WesTech Engineering, LLC so to do. In the event said equipment is held or conceded to infringe such a patent, WesTech Engineering, LLC shall have the right at its sole option and expense to a) modify the equipment to be non-infringing, b) obtain for Purchaser the license to continue using said equipment, or c) accept return of the equipment and refund to the Purchaser the purchase price thereof less a reasonable charge for the use thereof. WesTech Engineering, LLC will reimburse Purchaser for actual out-of-pocket expenses, exclusive of legal fees, incurred in preparing such information and rendering such assistance at WesTech Engineering, LLC's request. The foregoing states the entire liability of WesTech Engineering, LLC, with respect to patent infringement; and except as otherwise agreed to in writing, WesTech Engineering, LLC assumes no responsibility for process patent infringement.

17. SURFACE PREPARATION AND PAINTING: If furnished, shop primer paint is intended to serve only as minimal protective finish. WesTech Engineering, LLC will not be responsible for the condition of primed or finish painted surfaces after equipment leaves its shops. Purchasers are invited to inspect paint in shops for proper preparation and application prior to shipment. WesTech Engineering, LLC assumes no responsibility for field surface preparation or touch-up of shipping damage to paint. Painting of fasteners and other touch-up to painted surfaces will be by Purchaser's painting contractor after mechanism installation.

Motors, gear motors, and other components not manufactured by WesTech Engineering, LLC will be painted with that manufacturer's standard paint system. It is WesTech Engineering, LLC's intention to ship major steel components as soon as fabricated, often before drive, motors, and other manufactured components. Unless Purchaser can ensure that shop primed steel shall be field painted within thirty (30) days after arrival at the job site, WesTech Engineering, LLC encourages the Purchaser to order these components without primer.

WesTech Engineering, LLC's prices are based on paints and surface preparations as outlined in the main body of this proposal. In the event that an alternate paint system is selected, WesTech Engineering, LLC requests that Purchaser's order advise of the paint





Terms and Conditions

selection. WesTech Engineering, LLC will then either adjust the price as may be necessary to comply or ship the material unpainted if compliance is not possible due to application problems or environmental controls.

18. CANCELLATION, SUSPENSION, OR DELAY: After acceptance by WesTech Engineering, LLC, this proposal, or Purchaser's order based on this proposal, shall be a firm agreement and is not subject to cancellation, suspension, or delay except upon payment by Purchaser of appropriate charges which shall include all costs incurred by WesTech Engineering, LLC to date of cancellation, suspension, or delay plus a reasonable profit. Additionally, all charges related to storage and/or resumption of work, at WesTech Engineering, LLC's plant or elsewhere, shall be for Purchaser's sole account; and all risks incidental to storage shall be assumed by Purchaser.

19. FORCE MAJEURE: Neither party hereto shall be liable to the other for default or delay in delivery caused by extreme weather or other act of God, strike or other labor shortage or disturbance, fire, accident, war or civil disturbance, act of government, pandemic, delay of carriers, failure of normal sources of supply, complete or partial shutdown of plant by reason of inability to attain sufficient raw materials or power, and/or other similar contingency beyond the reasonable control of the respective parties. The time for delivery specified herein shall be extended during the continuance of such conditions, or any other cause beyond such party's reasonable control. Escalation resulting from a Force Majeure event shall be equitably adjusted per the escalation policy stated above.

20. RETURN OF PRODUCTS: No products may be returned to WesTech Engineering, LLC without WesTech Engineering, LLC's prior written permission. Said permission may be withheld by WesTech Engineering, LLC at its sole discretion.

21. BACKCHARGES: WesTech Engineering, LLC will not approve or accept backcharges for labor, materials, or other costs incurred by Purchaser or others in modification, adjustment, service, or repair of WesTech Engineering, LLC furnished materials unless such back charge has been authorized in advance in writing by a WesTech Engineering, LLC purchase order, or work requisition signed by WesTech Engineering, LLC.

22. INDEMNIFICATION: Purchaser agrees to indemnify WesTech Engineering, LLC from all costs incurred, including but not limited to court costs and reasonable attorney fees, from enforcing any provisions of this contract, including but not limited to breach of contract or costs incurred in collecting monies owed on this contract.

23. ENTIRE AGREEMENT: This proposal expresses the entire agreement between the parties hereto superseding any prior understandings, and is not subject to modification except by a writing signed by an authorized officer of each party.

24. MOTORS AND MOTOR DRIVES: In order to avoid shipment delays of WesTech Engineering, LLC equipment, motors and drives may be sent directly to the job site for installation by the equipment installer. Minor fit-up may be required.

25. EXTENDED STORAGE: Extended storage instructions will be part of information provided to shipment. If equipment installation and start-up is delayed more than 30 days, the provisions of the storage instructions must be followed to keep WARRANTY in force.

26. LIABILITY: Professional liability insurance, including but not limited to, errors and omissions insurance, is not included. In any event, liability for errors and omissions shall be limited to the lesser of \$100,000 USD or the value of the particular piece of equipment (not the value of the entire order) supplied by WesTech Engineering, LLC against which a claim is sought.

27. ARBITRATION NEGOTIATION: Any controversy or claim arising out of or relating to the performance of any contract resulting from this proposal or contract issued, or the breach thereof, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered to any court having jurisdiction.

ACCEPTED BY PURCHASER

Customer Name: _____

Customer Address: _____

Contact Name: _____

Contact Phone: _____ Contact Email: _____

Signature: _____ Printed Name: _____

Date: _____ Title: _____



Supplemental Information

Lease Agreement

R199 Technical Data Sheet





Pilot Rental Lease Agreement

Equipment Scope of Supply

The pilot unit will include the equipment as listed within the pilot proposal document provided. Items listed as By Others are to be provided by others. Additionally, any item not listed within the proposal document are to be furnished by others.

Terms and Conditions

1. The rental charge will be as shown on the commercial pricing page.
2. Additional rental charges beyond the initial rental period are prorated on a monthly basis. Fractional rental charge in excess of the rental period shall be prorated on a weekly basis, based upon pricing.
3. The rental agreement is for a minimum 1-month period.
4. Invoices are rendered monthly with lease charges payable in advance. Terms on all invoices will be NET 30 DAYS.
5. Title to pilot plant will remain in the name of WesTech Engineering, LLC unless equipment is purchased, and full payment is made for same.
6. The Lessee will, at their own expense, carry necessary insurance to protect Lessor and Lessee against all risks to the equipment or any liability arising from the use of said equipment while equipment is in the possession and control of the Lessee. Insurance Value of the pilot units is \$150,000.00.
7. The above rental price is firm for thirty (30) days. All local, state, federal, sales, or manufacturer's taxes of any sort, and such taxes and/or charges pertaining thereto are to be borne by the Lessee.
8. Freight will be arranged by WesTech and included at actual cost. All shipments are FOB Shipping Point - Prepaid and Added (FSP-PPA). The actual shipping cost may vary depending on costs at the time the pilot unit ships. Shipping charges include return shipping cost. Equipment of adequate size will be required for removing the equipment from the trailer and placing the pilot unit at the testing location. Equipment will be packaged and loaded onto a truck for shipment. Trucks, trailers and any other means of transportation will be provided by and paid for by WesTech. WesTech will bill all shipping costs to customer after shipment. Customer is responsible for filing any damage, loss or theft claims directly with the freight carrier.
9. The pilot units will ship and arrive at the test site on an agreed upon date provided in this agreement and is initialed, signed and received by the lessor prior to the required ship day. The rental period shall end on the date the return shipment from Lessee.





Pilot Rental Lease Agreement

Party Responsibilities

1. The Lessor will be providing the following equipment, services, and consumables:
 - a. Equipment:
 - i. One (1) Trident Package Plant Pilot system with equipment listed above
 - ii. Clarifier and Filter Media
 - b. Services:
 - i. Services as shown and described in the above proposal
 - c. Consumables:
 - i. No chemical supply or consumables will be provided by WesTech. Chemicals and any consumables are the responsibility of the Lessee. Coagulant and polyacrylamide are needed for effective water treatment. Oxidants, pH adjustment, alkalinity adjustment chemicals, or PAC may also be needed. Proper chemical waste disposal is the responsibility of the Lessee.
2. The Lessee will be providing the following equipment, service, and consumables:
 - a. Equipment:
 - i. Equipment, such as a forklift, to unload and place pilot units at the beginning of the test and equipment needed to load pilots on truck at the conclusion of the test.
 - ii. Provide a suitable surface, relatively level, for placement of pilot unit. Surface will need to support the operating weight of the pilot units. Please take care that there are no overhead problems in the proposed placement area.
 - iii. Feed water supply piping and tankage, as applicable
 - iv. Connection to pilot of 460 V / three-phase power
 - b. Service:
 - i. Manpower for assistance with unloading and loading of pilot unit and hooking up and tear down of pilot unit.
 - ii. Adequate supervision, maintenance, repairs, grease and oil, etc., as may be necessary or required by Lessor.
 - iii. All tests, operation, sampling, maintenance, installation and other labor are part of the Lessee's cost and responsibility unless otherwise agreed upon.
 - iv. Repair for avoidable damage.



Pilot Rental Lease Agreement

- v. Handling and disposal of all pilot exit flows including filtrate, backwash waste, and chemical waste.
- c. Consumables:
 - i. Electrical service to the pilot unit as required
 - ii. Chemicals including sodium hydroxide, acid, antiscalant, and additional chemicals as necessary

Field Service

The Lessor has included the cost of a field service technician to provide the service described above. The following daily service rates will apply for Additional field service can be provided upon request. Rates will be assessed per WesTech's per Field Service Policy (available upon request).

Pilot Test Data and Results

Each party's access to the pilot test data and results will be discussed and agreed upon prior to the execution of this contract. WesTech Engineering, LLC will be pleased to maintain data obtained from on-site testing. WesTech will also review and evaluate, with the Lessee, the results of the testing data as it relates to the design and specification for full scale equipment.

Rental Return

The take down and shipping arrangements are the responsibility of the Lessee. Takedown must be performed per WesTech instructions.

Equipment must be returned to the Lessor properly freighted and packaged to prevent damage, in original condition and cleaned with no abnormal wear, missing or altered parts, and WesTech has received payment for all services. Upon receipt of equipment, WesTech retains the right to bill the Lessee for any major repairs, other than normal wear, and for any costs necessary to return the equipment to the condition in which it was received at the Lessee's plant. The Lessee should make sure the unit is cleaned and functional before returning.

Lessee: _____	Date: _____
Lessor: _____ (WesTech Engineering, LLC)	Date: _____

A close-up, high-speed photograph of water splashing, creating a dynamic and textured background. The water is dark blue and white, with many droplets and bubbles visible. The splash is moving from the top left towards the bottom right.

Technical Data Sheet

Trident/Trident HS Pilot Trailer

R199

Contact

Justin Roth
jroth@westech-inc.com
(515) 268-8523

Technical Data Sheet: R199

Monday, September 23, 2024

WESTECH[®]

 **SWIRE WATER**



Table of Contents



Pilot Equipment Overview



- Pilot Specifications
- Site Requirements
- Process Description



Process Specifications and Scope



- Primary Clarification- Tube Settler
- Secondary Clarification- Adsorption Clarifier
- Filtration- Mixed Media Filter
- Ancillary Equipment/Features Scope
- Instrumentation Scope



Reference Photos





Technical Information

Pilot Equipment Overview

The R199 Pilot Trailer demonstrates the ability of the Trident and Trident HS pre-engineered systems to achieve effective water treatment. The demonstration will also identify optimal chemical treatment schemes, hydraulic performance, and provide sludge characterization data. The pilot trailer comes equipped with control for completely automatic filtering and backwashing capabilities.

Pilot Specifications

Dimensions and Weights

Parameter	Description
Shipping Dimensions	51' 0" Long x 8' 3" Wide x 13' 6" High
Operating Dimensions	60' 0" Long x 12' 0" Wide x 15' 0" High
Shipping Weight	32,000 pounds
Operating Weight	36,000 pounds

Process Connections

Parameter	Description
Feed Break Tank	2 in NPT
Waste Pump	2 in Camlock
Potable Water	¾ in Garden Hose Fitting

Site Requirements

- Hard level surface- **Make sure the trailer is level before setup.**
 - Cribbing and/or tire ramping may be placed under the rear wheels to provide side-to-side leveling if the trailer is setup in an unlevel location.
 - For front-to-back leveling, the front of the trailer can be raised or lowered using the trailer jack.
- Power Supply- 480 VAC, 3 phase, 50 Amps, 60 Hz, 4-wire.
 - 50 ft of 4/8 AWG-SOW power cable provided.
- ≥30 gpm feed water @ ~20 psi supplied by customer.
- Potable/tap water from garden hose supplied by customer.
 - Pilot can utilize its produced filtered water for chemical makeup, but external tap water is preferred.
- Drain/waste location up to 50 gpm capacity.



Technical Information

Process Description

The Trident process consists of pre-treatment through the Adsorption Clarifier® and Microfloc™ Mixed Media filtration. The Trident HS process includes tube settling with external sludge recirculation for enhanced solids removal capacity. The system provides a multiple barrier treatment process with excellent predictable finished water quality.

The tube settler stage is a solids contact upflow process. The tube stage reduces influent solids concentration prior to the adsorption clarifier stage, leaving most of the coagulated particles in the tube settler. The heavier coagulated particles will fall out of suspension and settle on the bottom of the tube section and are periodically removed. The accumulation of semi-suspended particles in the tube section forms a blanket which aids in the formation of additional floc and helps to capture incoming particles. Solids may also be recirculated to the feed line to enhance solids formation and removal. Overall, the tube settler reduces plant waste volume and improves solids removal.

The Adsorption Clarifier is an upflow process. The clarification medium consists of a four foot bed of chemically inert bead material. The bead material is buoyant and is retained in the clarifier with a mesh screen. The clarifier media particle size has a very high solids storage capacity with relatively low headloss. The clarifier is periodically flushed to remove accumulated solids based on headloss development.

The Mixed Media filter bed consists of a unique combination of materials and sizes resulting in a bed that is hydraulically graded coarse to fine in the direction of filtration. This allows true depth filtration and the associated benefits of high solids storage, high rates, and high-quality effluent. Three materials are used: anthracite coal, silica sand and special high-density sand. The large grains at the top of the filter allow a greater number of particles to be held before a backwash is required. The fine sand at the bottom of the filter provides a large surface area that is very effective at achieving high quality effluent. The filter is periodically backwashed to remove accumulated solids based on headloss development.

Process Specifications and Scope

Primary Clarification- Tube Settler

Parameter	Description
Number of Units	1
Tube Modules	PVC hexagonal 60° settling tubes, with approximately 2 in tube openings, 41 in total vertical depth of tube settlers.
Tube Settler Area	6.0 ft ² (9 in x 96 in)
Tube Settler Loading Rate	2-5 gpm/ft ² @ 12-30 gpm (5 gpm/ft ² standard)
Sludge Recycle	Pumped, up to 7% of influent flow
Sludge Blowdown	Pumped, intermittent discharge



Technical Information

Secondary Clarification- Adsorption Clarifier

Parameter	Description
Number of Units	1
Adsorption Clarifier Media	Media depth is 4 ft. of 50/50 R&S buoyant inert bead media.
Media Retention	Stainless Steel Mesh
Adsorption Area	2.0 ft ² (17 in x 17 in)
AC Loading Rate- Trident	6-10 gpm/ft ² @ 12-20 gpm (10 gpm/ft ² standard)
AC Loading Rate- Trident HS	6-15 gpm/ft ² @ 12-30 gpm (15 gpm/ft ² standard)
Flush Water Rate	10 gpm/ft ² @ 20 gpm
Flush Air Rate	4 scfm/ft ² @ 8 scfm
Flush Water Source- Trident	Raw water (chemically treated)
Flush Water Source- Trident HS	Primary clarification effluent

Filtration- Mixed Media Filter

Parameter	Description
Number of Units	1
Filter Media	18 in- 1.0-1.1 mm Anthracite 9 in- 0.35-0.45 mm Silica Sand 3 in- 0.2-0.32 mm Garnet
Media Retention	Graded Gravel, Nozzle Distribution Header
Filter Area	2.0 ft ² (17 in x 17 in)
Filter Loading Rate	2-5 gpm/ft ² @ 4-10 gpm (5 gpm/ft ² standard)
Backwash Water Rate- Air & Water	5 gpm/ft ² @ 10 gpm
Backwash Water Rate- Water Only	15 gpm/ft ² @ 30 gpm
Backwash Air Rate	3 scfm/ft ² @ 6 scfm
Backwash Water Source	Clearwell- MMF Finished Water

Ancillary Equipment/Features Scope

Item	Quantity	Description	Brand (or Equal)
Feed Pump	1	Submersible, 2 HP	Gould
AC Transfer Pump	1	Centrifugal, ½ HP	Gould
Filter Service/BW Pump	1	Centrifugal, ½ HP	Gould
Sludge Pump	1	Progressive Cavity, ¾ HP	Liberty
Waste Pump	1	Submersible, ½ HP	Gould
Air Compressor	1	For process use and valve actuation	Champion



Technical Information

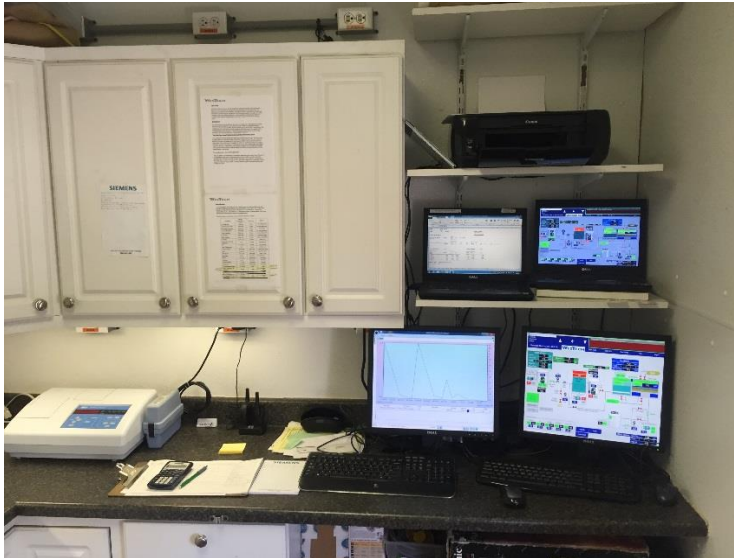
Valves/Actuators	-	Manual and actuated valves	Bray
Feed Tank	1	150 gallon w/ overflow	-
Waste Tank	1	Open trough	-
Chemical Feed Pump	5	0.5-105 mL/min peristaltic pump	Stenner
Chemical Feed System	5	Day tank, mixer, calibration cylinder, and injection quill	-
Electrical Controls	1	NEMA 4, PLC, HMI	-
Data Logging	1	Dedicated PC w/ software	Matrikon
Alarm System	1	Remote/cellular alarm dialer	-
Laboratory	1	Dedicated lab space and equipment for field testing	-

Instrumentation Scope

Item	Quantity	Description	Brand (or Equal)
Flow Meter- Water	3	Influent, Sludge recycle & blowdown, MMF effluent & backwash	Siemens Mag5000
Flow Meter- Air	2	AC flush, MMF backwash	King Rotameter
Pressure Loss	2	AC, MMF	Endress Hauser
Turbidity	4	Influent, Tube Effluent, AC Effluent, MMF Effluent	Swan AMI
Turbidity- High Influent	1	Influent (>200 NTU)	Hach Solitax
Particle Count	2	Influent, MMF Effluent	ChemTrac PC3400
pH	3	Influent, Chemically Treated, MMF Effluent	Sensorex TX3100/S272CD
Temperature	1	Influent	Sensorex TX3100/S272CD
Streaming Current	1	Chemically Treated	ChemTrac SCM2500
Spectrophotometer	1	Grab Samples	Hach DR1900
UV254%T Analyzer	1	Grab Samples	Real Tech P200



Reference Photos





Reference Photos





PROPOSAL

For: Suozzo, Doty & Associates
Attn: Gregory Swart, PE
Billing Address: 4607 Lake Shore Drive, Bolton Landing, NY 12814
Phone: (518) 240-6293
Email: gswart@sdapllc.com
Date: 12/12/2024
Project: Raw Water Main Investigation
Location: Saranac Lake, NY
Arch/Engineer: Suozzo, Doty & Associates

Subject to prompt acceptance, within 30 days and to all conditions stipulated, we propose to furnish the following:

Provide vac truck and camera truck with operators to perform cleaning and CCTV inspection of 14" raw water main by the day.

Total Price:	\$4,150/Day
Est. # Days:	2 to 3

Exclusions

Bonds, permits, fees or taxes
Disposal of contaminated soils. (if encountered)
Maintenance & protection of vehicle, railroad & pedestrian traffic other than cones.
Bypass pumping. (If Required)

Inclusions

Videos & reports to be sent FTP site.
We are a WBE/DBE Certified Contractor

Special Notes

Owner to provide nearby hydrant or tanker water & water/soils dumpsite at no charge to Arold.
Owner shall notify Arold of any backcharges in advance and give Arold the opportunity to correct.
Owner shall provide reasonable access to work areas for trucks & equipment.
Arold will not be responsible for any restoration of surfaces due to equipment damage.
Pricing is based on an 8 hour day. Overtime will be at a rate of \$550 per hour.
Pricing is based on completion during the 2024 to 2025 construction season. Work delayed past 2025 will be subject to change.
Pricing is based on our standard insurance. Additional insurance (railroad, etc.) will be at an additional cost.
Pricing is based on payment within 30 days of invoicing.

Thank you for the opportunity to quote this project.

Regards,

A handwritten signature in blue ink that reads "Ryan M. Arold".

Ryan Arold
Vice President

Accepted By: _____

Date: _____