

**STATE UNIVERSITY OF NEW YORK**  
**Purchase College**  
**REQUEST FOR PROPOSAL (RFP)**  
**PROPOSAL SU-060815, dated 08 June 2015**

RFP Number:  
SU-060815

Dated:  
June 08, 2015

Description:  
Solar Power Purchase Power Agreement

Contract Term:  
(twenty-five) years

Calendar of Events – Procurement Timetable:

Release of RFP to Vendors ..... June 08, 2015  
Open Question Period ..... June 15 - June 30, 2015 COB  
**Pre-Bid Meeting ..... June 25, 2015 @ 10:00AM**  
Answers to Questions posted: ..... July 8, 2015  
**Proposal Due Date/Time.....July 23, 2015 @ 1:00 PM**  
Anticipated Vendor Award Notification ..... August, 2015  
Vendor De-Briefing ..... upon request after notice of award

Location of Service:

Purchase College  
State University of New York  
735 Anderson Hill Road  
Purchase, New York 10577

	<u>Pages</u>
<a href="#">Part I: General</a> .....	5-19
<a href="#">Part II: Technical Requirements</a> .....	20-23
<a href="#">Part III: Project Specifications</a> .....	24-37
<a href="#">Part IV: Submission Requirements</a> .....	38-40
<a href="#">Part V: Evaluation and Award</a> .....	41-44
<a href="#">Part VI: NYSERDA PON</a> .....	45
<a href="#">Part VII: Purchase Power Agreement</a> .....	46
<a href="#">Standard Contract Clauses</a> .....	Exhibit A
<a href="#">Affirmative Action Clauses</a> .....	Exhibit A-1
<a href="#">Submission Form-Bid Proposer Info</a> .....	Attachment A
<a href="#">Submission Form Use of NYS Businesses</a> .....	Attachment B
<a href="#">Project Site Schedule</a> .....	Attachment C
<a href="#">Electric Invoices</a> .....	Attachment D
<a href="#">Description of Premises and System</a> .....	Attachment E
<a href="#">Estimated Energy Production</a> .....	Attachment F
<a href="#">Kilowatt Hour Rate</a> .....	Attachment G
<a href="#">Early Termination Fee</a> .....	Attachment H

Designated Contacts:  
For New York State/SUNY administrative policy and procedure:  
Nikolaus D. Lentner  
Director of Purchasing & Accounts Payable

Telephone: 914-251-6070  
Fax: 914-251-6075  
Email: [nikolaus.lentner@purchase.edu](mailto:nikolaus.lentner@purchase.edu)

James Mwaura  
Associate Director of Purchasing & Accounts Payable  
Telephone: 914-251-6089  
Fax: 914-251-6075  
Email: [james.mwaura@purchase.edu](mailto:james.mwaura@purchase.edu)

For technical information and clarification of detailed specifications:  
Tom Kelly  
Senior Energy Manager, Facilities  
Telephone: 914-251-6944  
Fax: 914-251-6935  
Email: [tom.kelly@purchase.edu](mailto:tom.kelly@purchase.edu)

PART 1: GENERAL INFORMATION AND INSTRUCTIONS..... 5

    Request for Proposal (RFP) ..... 5

    Proposal Submission ..... 5

    Open Question Period..... 6

    Pre-Bid/Proposal Meeting ..... 7

    Offeror De-Briefing Meeting..... 7

    Contract Award Protest Procedure..... 7

    Standard Contract Clauses..... 7

    Affirmative Action Policy..... 7

    Minority and Women-owned Business Enterprises ..... 8

    Gramm-Leach-Bliley Act..... 8

    Proposal Confidentiality..... 8

    Sustainable Procurement..... 9

    Omnibus Procurement Act of 1992 ..... 9

    Encouraging Use of New York State Businesses in Contract Performance ..... 9

    Restrictions on the Activities of Current and Former State Officers and Employees..... 10

    Determination of Vendor Responsibility ..... 11

    Sales and Compensating Use Tax Documentation ..... 11

    State Finance Law §§ 139-j and 139-k ..... 12

    Policy and Procedure of the State University of New York..... 12

    Consultant Disclosure Legislation ..... 13

    Diesel Emissions Reduction Act of 2006 (the “Act”)..... 13

    Payment Terms ..... 13

    Information Security Breach and Notification Act..... 14

    Additional Terms and/or Conditions:..... 14

    Purchase College has the right to: ..... 17

PART 2: TECHNICAL REQUIREMENTS..... 20

    Eligible Bidders:..... 20

    Timely Completion ..... 20

    Prime Power:..... 20

    System Size Limitation: ..... 20

    Estimated Cost ..... 20

    NY-Sun/NYSERDA Award..... 21

System Design and Permitting .....	21
Net Metering, Interconnection:.....	21
PV System Documentation and Process Control .....	22
Balance of System .....	22
State Environmental Quality Review Act: .....	23
Photovoltaics: .....	23
Metering and Data Acquisition for PV Installations:.....	23
<b>PART 3: PROJECT SPECIFICATIONS .....</b>	<b>24</b>
Division 1 - General Requirements .....	24
SECTION A - Description of Work.....	24
SECTION B - Special Conditions.....	27
<b>PART 4: SUBMISSION REQUIREMENTS .....</b>	<b>38</b>
Preparing a Proposal.....	38
Cover Letter.....	38
Proposal Outline: .....	38
1.0 Bidder Qualification Package .....	38
2.0 Project Site Package(s) .....	39
3.0 Site Cost Proposal Forms .....	40
4.0 Project Assignment After PPA is Approved by New York State Office of the State Comptroller .....	40
<b>PART 5: EVALUATION AND AWARD .....</b>	<b>41</b>
<b>CONTRACTOR MINIMUM QUALIFICATION REQUIREMENTS .....</b>	<b>41</b>
Experience.....	41
References .....	41
Implementation Schedule.....	41
Project Site Packages .....	41
Quality Assurance Plan.....	42
<b>PROPOSAL EVALUATION .....</b>	<b>43</b>
Award .....	44
<b>Part 6: NYSERDA PON.....</b>	<b>45</b>
<b>Part 7: PURCHASE POWER AGREEMENT (PPA).....</b>	<b>46</b>
Exhibit A: Standard Contract Clauses.....	47
Exhibit A-1: Affirmative Action Clauses .....	50
Attachment A: Project Site Schedule .....	53
Attachment B: Electric Invoices .....	54

Attachment C: Description of Premises and System ..... 55  
Attachment D – Estimated Annual Production..... 56  
Attachment E - - kWh Rate ..... 57  
Attachment F – Early Termination Fee ..... 58

# PART 1: GENERAL INFORMATION AND INSTRUCTIONS

## Request for Proposal (RFP)

Purchase College is dedicated to environmentally sustainable practices. In an effort to conserve resources and reduce waste, the RFP will only be available electronically in PDF format at the following website:

<http://www.purchase.edu/purchasemeansbusiness> (and click Current Procurement Opportunities).

## Proposal Submission

When submitting Qualifications, you must:

1. Prepare a clearly readable document. Attach all required information.
2. Indicate any deviations from the specifications and if necessary attach separate documents and/or explanation.
3. **Sign the Proposal.** By signing you indicate full knowledge and acceptance of this Request for Proposal ("RFP") including Exhibits A and A-1. The Proposal must be completed in the name of the proposer, corporate or otherwise, and must be fully and properly executed by an authorized person.
4. (1) **Submit seven (7) complete bound Proposal, one of which must have original signatures.** Proposals should be sealed and should be clearly marked "Sealed Proposal #SU-060815": and be submitted as specified in Part II. Proposals are to be addressed to:

Nikolaus D. Lentner  
Director of Purchasing & Accounts Payable  
Purchasing & Accounts Payable Office  
State University of New York  
Purchase College  
735 Anderson Hill Road  
Purchase, NY 10577-1402

(2) Proposal Envelopes and Packages

Envelopes and/or packages containing bid proposals should be clearly marked "**PROPOSAL ENCLOSED**" and should state the **RFP Number and Bid Opening Date**. Failure to complete all information on the bid envelope or package may necessitate the premature opening of the package, and bids/proposals may be returned.

5. Proposals must be received in the Purchasing & Accounts Payable Office by the due date and time. Offerors mailing their Proposals must allow sufficient time to ensure receipt of their Proposals by the time specified. Offerors are cautioned that, although using trackable mailing/courier/messenger services, Proposals must be received in the Purchasing & Accounts Payable Office by the due date and time for consideration by the selection committee. While Proposals may be signed for by Purchase College Mail Operations personnel prior to the due date and time, this does not guarantee that the Purchasing & Accounts Payable Office will receive the Proposal by the Proposal due time. No Proposal will be considered that is not physically received by the Purchasing & Accounts Payable Office by the Proposal due date and time. Electronically transmitted Proposals will **NOT** be accepted.

6. (1) Bid Documents to be submitted at time of Bid:
  1. Attachment 1-Bid Proposer Submission Information
  2. Attachment 2- Encouraging Use of New York State Businesses in Contract Performance form
  3. Bid Proposal, including Exhibit B (Bid Proposal form)
  4. MWBE Form 107 – MWBE Utilization Plan  
[http://www.suny.edu/sunypp/lookup.cfm?lookup\\_id=618](http://www.suny.edu/sunypp/lookup.cfm?lookup_id=618)
  
- (2) Bidder may be requested to submit the following documents. The requested documents must be provided within 7 (seven) calendar days of College request.
  1. MWBE Form 104 – Contractor’s EEO Policy Statement  
[http://www.suny.edu/sunypp/lookup.cfm?lookup\\_id=615](http://www.suny.edu/sunypp/lookup.cfm?lookup_id=615)
  2. MWBE Form 108 – EEO Staffing Plan  
[http://www.suny.edu/sunypp/lookup.cfm?lookup\\_id=621](http://www.suny.edu/sunypp/lookup.cfm?lookup_id=621)
  3. Vendor Responsibility Questionnaire  
<http://www.osc.state.ny.us/vendrep/documents/questionnaire/ac3290s.pdf>
  4. Contractor Certification form ST-220-CA  
[http://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)
  5. Proof of Insurance:
    - a) Workers Compensation, form C-105.2
    - b) Disability Benefits, form DB-120.1
    - c) Liability (Comprehensive General Liability and Property Damage; and Automobile Liability and Property Damage)
  6. Form B, Affirmation with respect to State Finance Law §§139-j and 139-k  
[http://www.suny.edu/sunypp/documents.cfm?doc\\_id282](http://www.suny.edu/sunypp/documents.cfm?doc_id282)
  7. Form C, Disclosure and Certification with respect to State Finance Law §§139-j and 139-k  
[http://www.suny.edu/sunypp/documents.cfm?doc\\_id283](http://www.suny.edu/sunypp/documents.cfm?doc_id283)
  
- (3) Within seven (7) calendar days of notice of award, the successful bidder will be required to submit:
  1. Labor and Material Bond, Performance Bond, and Acknowledgment for Bonds  
[http://www.suny.edu/sunypp/documents.cfm?doc\\_id=514](http://www.suny.edu/sunypp/documents.cfm?doc_id=514)

## Open Question Period

The College will allow for a question/answer period as indicated in the Calendar of Events– Procurement Timetable on page 1. All questions must be submitted in writing, citing the particular RFP page, section and paragraph numbers where applicable. All questions must be E-MAILED, with the e-mail reference “**RFP SU-060815 Solar Power Purchase Power Agreement- Questions**”, to arrive no later than the Close of Business on June 30, 2015, and directed to Tom Kelly at email [tom.kelly@purchase.edu](mailto:tom.kelly@purchase.edu). Questions received after the closing date for inquiries will not be answered. Only written answers are official. All questions and answers will be issued as

addenda to this RFP, and will be posted to <http://www.purchase.edu/purchasemeansbusiness> by the date indicated on page 1.

## Pre-Bid/Proposal Meeting

There will be a non-mandatory Pre-Bid/Proposal Conference at 10:00 AM on June 25, 2015 in the Student Services Building Red Room at Purchase College (*noted as building #18 on the campus map*), 735 Anderson Hill Road, Purchase, New York 10577.

For directions to Purchase College, see <http://www.purchase.edu/AboutPurchase/VisitorsGuide/Directions/>.

For a campus map, see <http://www.purchase.edu/AboutPurchase/VisitorsGuide/CampusMap.aspx>

## Offeror De-Briefing Meeting

Upon notification of the selection and award of the contract, unsuccessful vendors are entitled to, and shall receive, upon request, a de-briefing of the results of their response to this Request for Proposals. Requests for debriefing by an unsuccessful bidder should be made within thirty (30) days after the award of the contract.

## Contract Award Protest Procedure

Upon notification of the selection and award of the contract, the bidder whose bid or proposal was not selected as the successful bid or proposal is entitled to submit a Bid Protest in accordance with SUNY's Contract Award Procedure (Document #7561). The SUNY's Protest Procedure is available at [http://www.suny.edu/sunypp/documents.cfm?doc\\_id=699](http://www.suny.edu/sunypp/documents.cfm?doc_id=699). Please note that the Protest Officer is Nikolaus D. Lentner; contact information is located on page 1 of this RFP.

## Standard Contract Clauses

Any contract resulting from this RFP shall include Exhibit A (Standard Contract Clauses, State University of New York State) and Exhibit A-1 (Affirmative Action Clauses, State University of New York), the provisions of which shall take precedence over any provision in the RFP. These clauses relate to, among other things, assignment of the contract, availability of funds, non-discrimination, affirmative action, non-collusion, worker's compensation.

## Affirmative Action Policy

New York State Executive Order No. 6, regarding equal employment opportunities states:

*It is the policy of the State of New York that equal opportunity be assured in the State's personnel system and affirmative action provided in its administration in accordance with the requirement of the State's Human Rights Law and the mandate of Title VII of the Federal Civil Rights Act, as amended. Accordingly, it is the responsibility of the State's Department of Civil Service to enforce the State's policy of ensuring full and equal opportunity for minorities, women, disabled persons and Vietnam era veterans at all occupational levels of state government.*

In keeping with this policy, Purchase College mandates compliance internally and for all organizations with which it conducts business. The determination of contract award will include a review of evidence supplied by each Offeror regarding compliance with the State's Affirmative Action policy. Accordingly, an Offeror's Proposal must include its organization's affirmative action policy, and agree that all presentations and materials will be free from racial, religious, or sexual bias.

## Minority and Women-owned Business Enterprises

It is the policy of Purchase College and the State University of New York to take affirmative action to ensure that minority and women-owned business enterprises are given the opportunity to demonstrate their ability to provide goods and services at competitive prices.

GOALS FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION: For all State Contracts in excess of \$25,000.00 whereby each SUNY campus is committed to expend or does expend funds in return of labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or a combination of the foregoing or all State Contracts in excess of \$100,000.00 whereby Purchase College is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, Offeror shall exert good faith efforts to achieve a required participation goal of **fifteen percent (15%)** for certified Minority-Owned Business Enterprises and **fifteen percent (15%)** for certified Women-Owned Business Enterprises.

The MWBE directory can be accessed at <http://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

## Gramm-Leach-Bliley Act

In performing this contract offeror will receive, maintain process or otherwise will have access to confidential information on students and/or customers of Purchase College. Pursuant to the Gramm-Leach-Bliley Act (P.L. 106-102) and the Federal Trade Commission's Safeguards Rule (16 CFR Part 314.2), you must implement and maintain a written Information Security Program in order to protect such customer information. Customer information is defined in relevant part under the Safeguards Rule as "any record containing nonpublic personal information as defined in 16 CFR §313(n)" (the FTC's Privacy Rule) "about a customer of a financial institution, whether in paper, electronic or other form" (16 CFR §314.2). Examples of nonpublic personal customer information include, but are not limited to, name, address, phone number, social security number, bank and credit card account numbers and student identification numbers.

The safeguards that contractor implements under the Program must comply with the elements set forth in 16 CFR §314.4 and must achieve the objectives enunciated in 16 CFR §314.3, namely to: 1) insure the security and confidentiality of student and/or campus customer records and information; 2) protect against any anticipated threats or hazards to the security or integrity of such records; and 3) protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any student and/or campus customer.

## Proposal Confidentiality

All Proposals submitted for Purchase College's consideration will be held in confidence. However, the resulting contract is subject to the New York State Freedom of Information Law (FOIL). Therefore, if an Offeror believes



that any information in its Proposal constitutes a trade secret or should otherwise be treated as confidential and wishes such information not to be disclosed if requested, pursuant to FOIL, (Article 6 of the Public Officers' Law), the Offeror shall submit with its Proposal a separate letter addressed to: Nikolaus D. Lentner, *Records Access Officer, Purchase College, State University of New York, 735 Anderson Hill Road, Purchase, NY 10577-1402*, specifically identifying the page number(s), line(s) or other appropriate designation(s) containing such information, explaining in detail why such information is a trade secret and formally requesting that such information be kept confidential. Failure by an Offeror to submit such a letter with its Proposal identifying trade secrets will constitute a waiver by the Offeror of any rights it may have under Section 89(5) of the Public Officers' Law relating to protection of trade secrets.

The proprietary nature of the information designated confidential by the Offeror may be subject to disclosure if ordered by a court of competent jurisdiction. A request that an entire Proposal be kept confidential is not advisable since a Proposal cannot reasonably consist of all data subject to FOIL proprietary status.

## **Sustainable Procurement**

It is expected that all offerors will support the purchase of products that will minimize any negative environmental impacts of the contract. In order to facilitate a healthy market in sustainable products, all parties involved in the procurement and utilization of materials must engage in both waste recycling and the initial purchase of products containing recycled content. It is in the interest of public health, safety and welfare and the conservation of energy and natural resources to use and promote environmentally responsible products, including packaging and transportation products and methods.

The successful vendor shall comply, when applicable, with the policy of the State of New York and the State University of the State of New York that all purchases shall incorporate sustainable procurement policies and practices.

In accordance with the provisions of Section 165(3) of the State Finance Law:

The State University of New York is required to purchase recycled products, if available, made with recycled content in accordance with rules and regulations established by the State Department of Environmental Conservation in development of that agency's Recycling Emblems Program. If the cost of a recycled product does not exceed the cost of a product made without recycled content by 10% (or by 15% if over 50% of the recycled materials are generated from the New York State waste stream), the recycled product must be purchased.

## **Omnibus Procurement Act of 1992**

It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts. Information on the availability of New York State subcontractors and suppliers and a directory of minority and women-owned business enterprises is available from: NYS Empire State Development, New York State Department of Economic Development, One Commerce Plaza, Albany, New York 12210, phone 1-800-782-8369, email [esd@empire.state.ny.us](mailto:esd@empire.state.ny.us), website <http://www.empire.state.ny.us/>.

## **Encouraging Use of New York State Businesses in Contract Performance**

New York State businesses have a substantial presence in SUNY contracts and strongly contribute to the economies of New York and the nation. In recognition of their economic activity and leadership in doing

business in New York State, bidders/proposers/contractors for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Bidders/proposers/contractors need to be aware that to the maximum extent practical and consistent with legal requirements, they are strongly encouraged to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, bidders/proposers/contractors are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

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

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

Bidders/proposers can demonstrate their commitment to the use of New York State businesses by responding to the question "Will New York State Businesses be used in the performance of this contract?" on the offerors information sheet included in this RFP.

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

Offerors and their employees are cautioned that the hiring of former state employees may violate the Ethics Law. The governing provisions are set forth in Paragraphs 73 and 74 of the Public Officers Law, and the underlying principle of the law is to prevent conflicts of interest, and encourage ethical behavior. The law may be found on the following web site: <http://www.jcope.ny.gov/law/ethics.html>.

While the two most relevant paragraphs of law are contained below, any questions relating to interpretation of the Public Officers Law should be directed to the Ethics Commission at (518) 432-8207 or (800) 873-8442 {(800) 87-ETHIC}.

Public Officers Law Paragraph 73(8)(a)(i) and (ii):

73. 8. (a) (i) No person who has served as a state officer or employee shall within a period of two years after the termination of such service or employment appear or practice before such state agency or receive compensation for any services rendered by such former officer or employee on behalf of any person, firm, corporation or association in relation to any case, proceeding or application or other matter before such agency.

73. 8. (a) (ii) No person who has served as a state officer or employee shall after the termination of such service or employment appear, practice, communicate or otherwise render services before any state agency or receive compensation for any such services rendered by such former officer or employee on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction with respect to which such person was directly concerned and in which he or she personally participated during the period of his or her service or employment, or which was under his or her active consideration. Former State employees may be retained by a Offeror under contract with a state agency, after he or she leaves State service, provided that they

are not placed back at their former agency during their two year postemployment period or engaged in any other activities that would violate the lifetime bar provision of Public Officers Law Paragraph 73(8)(a)(ii). An individual who, following a hearing, is found to have knowingly and intentionally violated the provisions of Public Officers Law Paragraph 73(8)(a)(i) may be subject to a civil penalty in an amount not to exceed ten thousand dollars (\$10,000.00) for each violation.

### **Determination of Vendor Responsibility**

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

- a) In accordance with these procurement laws, Purchase College will conduct an affirmative review of vendor responsibility for all organizations or firms with which it conducts business. In doing so, Offerors are required to file the Vendor Responsibility Questionnaire online via the New York State VenRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the VendRep System, see the VendRep System Instructions available at <http://www.osc.state.ny.us/vendrep/index.htm> or go directly to the VendRep System online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at [helpdesk@osc.state.ny.us](mailto:helpdesk@osc.state.ny.us). Offerors opting to file a paper questionnaire may obtain the appropriate questionnaire from the VendRep website [http://www.osc.state.ny.us/vendrep/forms\\_vendor.htm](http://www.osc.state.ny.us/vendrep/forms_vendor.htm) or may contact Purchase College for a copy of the paper form.
- b) The Offeror shall at all times during the Contract term remain responsible. The Offeror agrees, if requested by Purchase College, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
- c) Purchase College, at its sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when it discovers information that calls into question the responsibility of the Offeror. In the event of such suspension, the Offeror will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Offeror must comply with the terms of the suspension order. Contract activity may resume at such time as Purchase College issues a written notice authorizing a resumption of performance of the Contract.
- d) Upon written notice to the Offeror, and a reasonable opportunity to be heard with appropriate officials or staff, the Offeror may be terminated by Purchase College at the Offeror’s expense where the Offeror is determined by Purchase College to be non-responsible. In such event, Purchase College may complete the contractual requirements in any manner it deems advisable and pursue available or equitable remedies for breach.

### **Sales and Compensating Use Tax Documentation**

Pursuant to New York State Tax Law Section 5-a (Chapter 60, Part N, Laws of 2004, and amended Chapter 62, Part L, Laws of 2006), for procurements of \$100,000 and greater, a completed Contractor Certification form ST-220-CA must be collected from Offerors. (Offerors must also forward a completed form ST-220-TD to the NYS Tax Department.) The link to obtain the blank form ST-220-CA is: [http://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf).

## State Finance Law §§ 139-j and 139-k

1. a. Prior to approval by Purchase College, or, if applicable, the Office of the State Comptroller (OSC), of the contract for which this solicitation has been issued, an Offeror shall not communicate with Purchase College other than with the persons identified in this solicitation as Designated Contacts, or with a person who the Designated Contacts has advised the Offeror is also a Designated Contact.
- b. The **Designated Contacts for this RFP are identified on page 1 of this RFP.**

## Policy and Procedure of the State University of New York

State Finance Law §§139-j and 139-k, enacted by Ch. 1 L. 2005, as amended by Ch. 596 L. 2005, effective January 1, 2011, regulate lobbying on government procurement, including procurements by State University to obtain commodities and services and to undertake real estate transactions. Generally, the law restricts communications between a potential offeror or a person acting on behalf of the offeror, including its lobbyist, to communications with the officers and employees of the procuring agency designated in each solicitation to receive such communications. Further, the law prohibits a communication (a "Contact") which a reasonable person would infer as an attempt to unduly influence the award, denial or amendment of a contract. These restrictions apply to each contract in excess of \$15,000 during the "restricted period" (the time commencing with the earliest written notice of the proposed procurement and ending with the later of approval of the final contract by the agency, or, if applicable, the State Comptroller). The agency must record all Contacts, and, generally, must deny an award of contract to a offeror involved in a knowing and willful Contact. Each agency must develop guidelines and procedures regarding Contacts and procedures for the reporting and investigation of Contacts. The agency's procurement record must demonstrate compliance with these new requirements.

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

A complete copy of the State University of New York Procurement Lobbying Policy and Procedure is available for review at: [http://www.suny.edu/sunypp/documents.cfm?doc\\_id=430](http://www.suny.edu/sunypp/documents.cfm?doc_id=430).

2. Each Offeror shall submit with its Proposal a written affirmation of its understanding of the State University's procurement lobbying procedures and agreement to comply with such procedures. Please see form SFL-139jk-Form B:  
[http://www.suny.edu/sunypp/documents.cfm?doc\\_id=282](http://www.suny.edu/sunypp/documents.cfm?doc_id=282)

3. Each Offeror shall submit with its Proposal written disclosure as to whether the Offeror has been determined to be non-responsible within the previous four years by reason of having violated NY State Finance Law § 139-j or having intentionally provided false or incomplete information to a Governmental Entity with respect to its compliance with NY State Finance Law §139-j; and certification that the Offeror has provided accurate and complete information with respect to the Offeror's compliance with NY State Finance Law §§ 139-j and 139-k within the previous four years. Please see form SFL-139jk-Form C:  
[http://www.suny.edu/sunypp/documents.cfm?doc\\_id=283](http://www.suny.edu/sunypp/documents.cfm?doc_id=283)

### **Consultant Disclosure Legislation**

Chapter 10 of the Laws of 2006 amends State Finance Law §§ 8 and 163 by requiring that offerors annually report certain employment information to the contracting agency, the department of Civil Service (DCS) and Office of the State Comptroller (OSC). As a result of these changes in law, State offerors will be required to disclose, by employment category, the number of persons employed to provide services under a contract for consulting services, the number of hours worked and the amount paid to the offeror by the State as compensation for work performed by these employees This will include information on any per-sons working under any subcontracts with the State offeror. Offeror will follow all rules and regulations of Consultant Disclosure Legislation requirements. Please see web site <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/> (section XI.18.C). A properly completed Form A, *New York State Consultant Services, Contractor's Planned Employment, From Contract Start Date Through the End of the Contract Term*, AC 3271-S, must be submitted by successful offeror:  
[www.osc.state.ny.us/agencies/forms/ac3271s.doc](http://www.osc.state.ny.us/agencies/forms/ac3271s.doc)

Form B, Contractor's Annual Employment Report, will be required annually for each period ending March 31.

### **Diesel Emissions Reduction Act of 2006 (the "Act")**

The Offeror certifies and warrants that all heavy duty vehicles, as defined in New York State Environmental Conservation Law (ECL) section 19-0323, to be used by the Offeror, its Agents or Subcontractors under this Contract, will comply with the specifications and provisions of ECL section 19-0323 and any regulations promulgated pursuant thereto, which requires the use of Best Available Retrofit Technology ("BART") and Ultra Low Sulfur Fuel ("ULSD"), unless specifically waived by DEC. Qualification for a waiver under this law will be the responsibility of the Offeror. Annually, but no later than March 1st, the Offeror shall complete and submit directly to the State University of New York ("SUNY"), via electronic mail, the Regulated Entity Vehicle Inventory Form and Regulated Entity and Contractors Annual Report forms at the Department of Environmental Conservation ("DEC") website: <http://www.dec.ny.gov/chemical/4754.html> for heavy duty vehicles used in the performance of this Contract for the preceding calendar year. The Offeror shall certify to SUNY, and submit with each application for payment, the Offeror and Subcontractor Certifications form, which states that the Offeror will comply with the provisions of Section 20.23."

### **Payment Terms**

Payments under the resulting contract award shall be made to the Offeror, upon receipt of goods/services and properly approved and completed invoice/s submitted to the attention of Purchase College. The Offeror shall provide complete and accurate billing invoices in order to receive payment for its services. Billing invoices to be submitted must contain all information and supporting documentation required by Purchase College and the Office of the State Comptroller (OSC). Payment for invoices submitted by the Offeror shall only be rendered electronically unless payment by paper check is expressly authorized by the Chief Financial Officer or designee,

in her/his sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary New York State procedures and practices. The Offeror shall comply with the OSC procedures to authorize payments. Authorization forms are available at the OSC website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by email at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us) or by telephone at 518-474-4032. The Offeror acknowledges that it will not receive payment on any invoices submitted under this contract if it does not comply with the OSC's electronic payment procedures, except where the Vice President or designee has expressly authorized payment by paper check as set forth above.

Payment shall be made net 30 days from receipt of an acceptable invoice. Interest for any unpaid balance will accrue pursuant to Section 179g of the New York State Finance Law that is 30 days past receipt of a SUNY acceptable invoice.

### **Information Security Breach and Notification Act**

Offeror shall comply with the provision of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa and State Technology Law, Section 208). Offeror shall be liable for the costs associated with such breach if caused by its negligent or willful acts or omissions, or the negligent or willful acts or omissions of its agents, officers, employees or subcontractors.

### **Additional Terms and/or Conditions:**

1. The following items will be incorporated into, and made part of, the formal agreement: (1) Purchase College's RFP; (2) Exhibit A, Standard Contract Clauses; and (3) Exhibit A-1, Affirmative Action Clauses.
2. In the event of any inconsistency in or conflict among the document elements of the agreement described above, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the following order: (1) Exhibits A and A-1; (2) the Agreement; and (3) this RFP.
3. Any terms that are attached or referenced with a submission shall not be considered part of the bid or proposal, but shall be deemed included for information purposes only.
4. The resulting agreement shall be binding upon its execution by both parties and, if required by New York State law, upon the approval of the Attorney General and the Office of the State Comptroller.
5. The agreement may be revised at any time upon mutual consent of the parties in writing. Such written consent will not be effective until signed by both parties and, if required by New York State law, approved by the Attorney General and the Office of the State Comptroller.
6. The relationship of the Successful Offeror to Purchase College shall be that of independent prime contractor.
7. Compliance with the post-employment restrictions of the Ethics in Government Act is required.

8. Proposed prices should reflect all discounts including educational discounts. Pricing reductions are encouraged and acceptable at any time during the contract period.
9. The submission of a Proposal constitutes a binding offer to perform and provide said services. Such binding offer shall be firm and not revocable for a period of 180 days after the deadline for Proposal submission and will continue thereafter until the Successful Offeror notifies Purchase College otherwise, in writing. Such deadline may be further extended by mutual agreement.
10. In the event Successful Offeror uses partners, subcontracts or subcontractors, the Successful Offeror will remain responsible for compliance with all specifications and performance of all obligations under the contract resulting from this RFP. For the resulting agreement, the Successful Offeror will be the prime contractor.
11. Purchase College will not be liable for any costs associated with the preparation, transmittal, or presentation of any Proposals or materials submitted in response to this RFP or the costs of any services performed prior to receiving approval of the agreement from New York State. All proposals and materials submitted in conjunction with proposals shall become the property of Purchase College for use as deemed appropriate, respecting all copyrights.
12. Purchase College will be the interpreter of all contract documents and make the final determination of the intent and meaning of all contract documents including the vendor's bid proposal. Purchase College shall be the determinant and make the final determination.
13. This RFP and the resulting contract shall be governed by the Laws of the State of New York.
14. Public announcements or news releases regarding this RFP or any subsequent award of a contract must not be made by any Offeror without the prior written approval of Purchase College.
15. The Successful Offeror(s) is responsible for compliance with all applicable rules and regulations pertaining to cities, towns, counties and State where the services are provided, and all other laws applicable to the performance of the resulting contract. The Successful Offeror shall provide all necessary safeguards for safety and protection as set forth by the United States Department of Labor, Occupational Safety and Health Administration.
16. Indemnification - The Successful Offeror shall hold harmless and indemnify Purchase College, the State University of New York and the State of New York, their officers and employees from and against any injury, damage, loss or liability to persons or property resulting from or arising out of (a) the agreement, and (b) the acts, omissions, liabilities, or obligations of the Successful Offeror, any affiliate, or any person or entity engaged by the Successful Offeror as an expert, consultant, independent contractor, subcontractor, employee or agent.
17. Liability - The Successful Offeror will be responsible for the work, direction and compensation of its employees, consultants, agents and contractors. Nothing in the resulting agreement or the performance



thereof by the Successful Offeror will impose any liability or duty whatsoever on Purchase College and/or the State University of New York including, but not limited to, any liability for taxes, compensation, commissions, Workers' Compensation, disability benefits, Social Security, or other employee benefits for any person or entity.

18. Liability Insurance –Prior to the commencement of work, the Successful Offeror will provide, at its sole cost and expense, Certificates of Insurance which shall remain in force throughout the term of the agreement, or any extension thereof, from an insurance company authorized to do business in the State of New York with a combined liability insurance policy with limits no less than **Three Million Dollars (\$3,000,000)** per individual for bodily injury and no less than **Five Million Dollars (\$5,000,000)** for property damage. Such policies shall name PURCHASE COLLEGE and the STATE UNIVERSITY OF NEW YORK as an additional insured (in the case of fire insurance, as its insurable interest may appear). Such policy shall designate Purchase College, as the loss payee and shall contain a provision that Purchase College shall receive at least thirty (30) day's notice prior to material change, cancellation or expiration of any such policy. The certificates of such insurance should be delivered to: *Director of Purchasing & Accounts Payable, Purchase College, State University of New York, 735 Anderson Hill Road, Purchase, NY 10577-1402*. Offeror will be responsible to submit updated certificates throughout the duration of the contract term. When possible please send certificates electronically or via fax. Each Certificate must include the specific Contract number and the name of the Contract Officer. Offeror is required to obtain any permits, insurance, bonds, etc., normally required for his/her business and employees.

Each insurance carrier must be rated at least "A-"Class "VII" in the most recently published Best's Insurance Report. If during the term of the policy, a carrier's rating falls below ""A-" Class "VII", the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to The State University of New York and rated at least "A-" Class "VII" in the most recently published Best's Insurance Report. The Offeror shall require that any subcontractors hired, carry insurance with the same limits and provisions provided herein.

19. Workers Compensation Insurance & Disability Benefits Coverage - All employees in the hire of the Successful Offeror shall be adequately and properly covered by Workers' Compensation Insurance and Disability Benefits coverage in all work concerned in and about the Purchase College premises. Such policies shall name PURCHASE COLLEGE and the STATE UNIVERSITY OF NEW YORK as an additional insured and are to be written by recognized and well-rated insurance companies authorized to transact business in the State of New York. Prior to commencement of work, proof of coverage of Workers Compensation Insurance and of Disability Benefits Coverage will be required to be submitted. For further information, see: <http://www.wcb.ny.gov/content/main/Employers/busPermits.jsp>.
20. Any firm or individual that participated in the development or preparation of this RFP is not eligible for award of the resulting contract.
21. The Successful Offeror will be responsible for the work, direction and compensation of its employees, consultants, agents and contractors. Nothing in the resulting agreement or the performance thereof by the Successful Offeror will impose any liability or duty whatsoever on Purchase College including, but not limited to, any liability for taxes, compensation, commissions, Workers' Compensation, disability benefits, Social Security, or other employee benefits for any person or entity.



22. In the event the Successful Offeror is required to be reimbursed for travel, Offeror shall be reimbursed at rates not to exceed the current NYS Schedule of Allowable Reimbursable Travel Expenses. Refer to the U.S. Government Administration Rates for Travel at: <http://www.gsa.gov>

### **Purchase College has the right to:**

1. Reject any and all Proposals received in response to this RFP in part or entirely.
2. To terminate any resulting contract for: (1) unavailability of funds; (2) cause; (3) convenience; (4) in the event it is found that the certification filed by the Offeror in accordance with New York State Finance Law § 139-j and 139-k was intentionally false or intentionally incomplete, and if applicable, the Department of Taxation and Finance Contractor Certification Form ST-220CA was false or incomplete. Upon such finding, Purchase College may exercise its termination right by providing written notification to the Offeror in accordance with the written notification terms of the contract.
3. Request certified audited financial statements for the past three (3) completed fiscal years and/or other appropriate supplementation including, but not limited to, interim financial statements and credit reports.
4. Request references and to contact any or all references.
5. Waive requirements or amend this RFP upon notification to all Offerors. Mandatory requirements may be eliminated if unmet by all Offerors.
6. Adjust or correct cost or cost figures with the concurrence of the Offeror if mathematical or typographical errors exist.
7. Negotiate with Offerors responding to this RFP within the requirements necessary to serve the best interests of the Purchase College.
8. Purchase College reserves the right to change any dates specified for the review and selection process.
9. Begin contract negotiations with another Offeror in order to serve the best interests of Purchase College, should Purchase College be unsuccessful in negotiating a contract with the Successful Offeror within an acceptable time frame.
10. Reject any or all portions of any offer, to negotiate terms and conditions consistent with the solicitation, and to make an award for any or all remaining portions.
11. Request clarifications from Offerors for purposes of assuring a full understanding of responsiveness, and further to permit revisions from all Offerors determined to be susceptible to being selected for contract award, prior to award.

12. Advise Successful Offeror of an objectionable employee(s) and/or subcontractor(s) and request their removal from the project. Such removal shall not be reasonably withheld by the Offeror.
13. Termination without cause: Either party may terminate the resulting contract by giving ninety (90) days written notice to the other party.
14. Waive minor irregularities.
15. Purchase College will not be liable for any costs incurred by respondents in the preparation and production of a Proposal or the costs of any services performed prior to receiving approval of the agreement from New York State. All Proposals, and materials submitted in conjunction with the Proposal, shall become the property of Purchase College for use as deemed appropriate, respecting all copyrights.
16. Purchase College reserves the right to modify or amend the requirements of this RFP after its release. All offerors will receive written notification of any modifications to the requirements of this RFP. If any modifications make compliance with the original Procurement Timetable impractical, the College will adjust the timetable accordingly. Any RFP modifications will be posted to: <http://www.purchase.edu/purchasemeansbusiness> (and click Current Procurement Opportunities).
17. Offerors who submit Proposal in response to the RFP may be required to give an oral presentation to representatives of Purchase College and/or allow a site visit to the main or branch office. The site visit may include a demonstration of on-line inquiry access services. This shall provide an opportunity for the Offeror to clarify or elaborate on the Proposal, but shall in no way change the original Proposal. Purchase College shall schedule the time and location.
18. The successful offeror will be notified by the College by telephone and confirmed by letter.
19. By submitting a Proposal, the offeror agrees that she/he will not make any claims for or have any right to damages because of any misinterpretation or misunderstanding of the specifications or because of any misinformation or lack of information.
20. Offerors may be requested to provide evidence that the award of an Agreement will not result in a conflict of interest with regard either to other work performed by the offeror or to potential conflict of interest among offeror staff.
21. Omissions, inaccuracy or misstatements may be sufficient cause for rejection of the Proposal.

22. Purchase College reserves the right to reject separable portions of any offer, to negotiate terms and conditions consistent with the solicitation, and to make an award for any or all remaining portions.

23. All Offerors and offeror employees must be aware of and comply with the requirement of the New York State Public Officers Law, and all other appropriate provisions of New York State Law and resultant codes, rules and regulations from State laws establishing the standards for business and professional activities of State employees and governing the conduct of employees of firms, associations and corporations in business with the State. In signing the Proposal response, each offeror guarantees knowledge and full compliance with those provisions for any dealings, transactions, sales, contracts, services, offers, relationships, etc. involving the State and/or State employees. Failure to comply with those provisions may result in disqualification from the RFP process and in other civil or criminal proceedings as required by law.

#### 24. Subcontractors

- Except for vendors designated by the College, the offeror must indicate in their Proposal response a statement giving the name and address of all proposed subcontractors. Said statement must contain a description of the portion of the work which the proposed subcontractors are to perform/provide and any information tending to prove that the proposed subcontractors have the necessary skill, experience and financial resources to provide the service in accordance with the Request for Proposal (RFP).
- The offeror shall have sole responsibility to the College for the acts or defaults of said subcontractors of such subcontractor's officers, agents and employees, each of whom shall for this purpose, be deemed to be the agent or employee of the offeror to the extent of its subcontract.
- The offeror shall execute with each of its subcontracts and shall require all subcontracts to execute a written agreement which shall bind the latter to the terms and provisions of this Request for Proposal insofar as such terms and provisions are applicable to the work to be performed by such subcontractors.

#### 25. Wage Rates and Supplements

The rates of wages and supplements determined by the Industrial Commissioner of the State of New York as Prevailing in the locality of the site at which the work will be performed can be found at:

<http://wpp.labor.state.ny.us/wpp/publicViewProject.do?method=showIt&id=1176439>

The Prevailing Wage Case Number (PRC#) assigned to this project is PRC# 2015005554

## PART 2: TECHNICAL REQUIREMENTS

### Eligible Bidders:

Bidders are permitted and encouraged to collaborate and form teams (i.e. manufacturers, energy service companies, system installation companies, equipment distributors, financial institutions, host sites, etc.) in order to meet the eligibility requirements identified herein. Utilities are not eligible to participate; however their un-regulated affiliates are eligible to participate as Bidders or as members of a Bidder's team. If the Bidders are submitting joint or consortia bids, they must comply with § 139-D of New York State Finance Law and attach appropriate Statement of Non-Collusion Form to the College. Bidders must show installation experience among the team members in the technology proposed. In addition, Bidders must show that their team's previous experience demonstrates competency with respect to the largest and most complex installation the Bidder proposes. For example, if a Bidder proposes to install a 2 MW PV project, the Bidder Qualification Package portion of the proposal must demonstrate that the "team" has the experience and capability to install a PV project of that size and complexity.

### Timely Completion:

The project is contingent upon award of a NYSERDA award; all projects must be completed within NYSERDA's timeframe for the grant.

### Prime Power:

This solicitation seeks projects designed for prime power applications; systems designed primarily for back-up electric power applications are not eligible. Construction must comply with current New York State Building Code.

### System Size Limitation:

This project and any other renewable systems will not exceed 110% of the site's historical annual net grid supplied consumption and no more than 2 MW (including any eligible Satellite Meters, see Net Metering, Interconnection below).

### Estimated Cost

The College estimates solar power balance of system and installation costs to be \$2.61 per watt, broken out as follows:

Estimated Cost per Watt	
<b>Balance of System</b>	\$/W
Inverter	\$0.18
Racking	\$0.18
Module	\$1.00
Electrical	\$0.49
Miscellaneous	\$0.18
Total	\$2.03
<b>Labor</b>	
Prevailing Wage	0.58
<b>Total Cost</b>	<b>\$2.61</b>

## NY-Sun/NYSERDA Award

Bidders who have previously received Awards under past and present NY-SUN and/or NYSEDA PONs:

For purposes of SUNY Purchase's review the College expects that Bidders bidding on this project who have previously been selected for an award under other NY-Sun and/or NYSEDA PONs will be making good faith progress on their PON award(s). In addition, if a Bidder under a previous PON has a previously contracted capacity block where less than the full capacity block is committed, any Incentive Bid submitted for that same Zone Group must not be greater than the Bidder's previously contracted Incentive Bid for the uncommitted capacity block. The Bidder must exercise due diligence to prevent the arranging of teams in formats intended to circumvent this requirement.

## System Design and Permitting

For each site, within 90 days of contract being signed, bidder shall create a Construction Plan set which includes at a minimum<sup>1</sup>:

Site overview

Detailed array layout with stringing configuration

Mounting and racking details

Details of electrical transmission showing conduit routing and location of electrical enclosures, conduit support details, and enclosure mounting details

Electrical single-line diagram

Electrical three-line diagram

Monitoring plan

Construction project plan with timeline

Bidder shall obtain approval of a structural NY state licensed Professional Engineer (PE) stamp verifying the integrity of the existing facility to handle additional weight load of proposed PV system

Bidder shall obtain electrical approval of a licensed PE stamp verifying the integrity and code compliance of proposed PV system and interconnection with facility.

Roof-mounted array layouts shall be designed to provide minimum of 3 feet of walking access around the perimeter of the roof and convenient access to existing roof-mounted HVAC equipment.

Ground-penetrating array layouts shall adhere to all soil and geographical requirements and concerns in terms of ground penetration and trenching.

Final array layouts shall be designed to avoid shading from 9am to 3pm annually. If this shading requirement cannot be strictly met, bidder shall specify the predicted solar access and performance losses.

- Wire loss in DC circuits to be < 1.5%
- Wire loss in AC circuits to be < 1.5%

## Net Metering, Interconnection:

The successful Bidder will be responsible for all net metering. Bidders should be aware that by pursuing interconnection with the utility, they may incur utility fees and/or costs to upgrade portions of the local utility infrastructure. Interconnection points will be at facility main switchgear. Depending upon the size, nature and location of the project, these fees may be substantial and if a utility upgrade is required, it could result in significant time delays. Bidders are

---

<sup>1</sup> "SOLAR PV SYSTEM SPECIFICATIONS AND REQUIREMENTS" EPA. 04/16/2014.

[http://www.epa.gov/greenpower/documents/events/webinar\\_20140416\\_pv\\_system\\_requirements.pdf](http://www.epa.gov/greenpower/documents/events/webinar_20140416_pv_system_requirements.pdf)

strongly encouraged to contact their local utility representative as soon as possible. The electric utility and the specific electric utility tariff that allows the project to participate in net metering must be identified in the proposal.

Bidders are strongly encouraged to review the utilities' tariffs prior to the submission of a bid. Electric utility tariffs can be found at: <https://www2.dps.ny.gov/ETS/search/searchShortcutEffective.cfm?serviceType=ELECTRIC>

The College is a New York Power Authority (NYPA) customer. The College' current contract expires in 2017. See Attachment 8 for copies of electric invoices. During the last 12 months, the College paid \$.6935/kWh during peak times and .4914 kWh during off peak times. Including demand charges, the College pays an annual average of \$.12/kWh yet close to \$.15/kWh during June through September.

## **PV System Documentation and Process Control**

Winning bidder will be required to<sup>2</sup>:

Provide Operations & Maintenance training to College staff to be identified.

Provide twenty-five years of system maintenance, with annual reports of system performance and consistent oversight of system monitoring.

Bidder shall be required to respond to system downtime within 24 hours of first occurrence of incidence. If corrective action is not immediately feasible, bidder shall notify College of action plan and timeline for execution.

Bidder shall be required to respond to warranty related issues not affecting production within 72 hours of notification.

Provide As-Built drawings of PV system, which must include finalized module layout and stringing chart.

## **Balance of System**

Each proposed PV system shall include, at a minimum, one fused DC disconnect and one fused AC disconnect for safety and maintenance concerns<sup>3</sup>.

String combiner boxes must include properly-sized fusing, and all metal equipment and components must be bonded and grounded as required by National Electric Code (NEC).

All system wiring and conduit must comply with NEC stipulations, and all indoor and outdoor wiring, outdoor-rated or otherwise, must be enclosed in EMT or RIGID conduit or covered raceway, except adjacent panel connections and under-array home run wiring.

Wall penetrations must be sealed in compliance with NEC and National Fire Protection Association (NFPA) regulations.

All wiring materials and methods must adhere to industry-standard best practices, and all inter-module connections must require the use of a specialized tool for disconnecting.

Material requirements:

---

<sup>2</sup> "SOLAR PV SYSTEM SPECIFICATIONS AND REQUIREMENTS" EPA. 04/16/2014.  
[http://www.epa.gov/greenpower/documents/events/webinar\\_20140416\\_pv\\_system\\_requirements.pdf](http://www.epa.gov/greenpower/documents/events/webinar_20140416_pv_system_requirements.pdf)

<sup>3</sup> Id.

Fasteners and hardware throughout system shall be stainless steel or material of equivalent corrosion resistance

Racking components shall be anodized aluminum, hot-dipped galvanized steel, or material of equivalent corrosion resistance

Unprotected steel not to be used in any components

### **State Environmental Quality Review Act:**

The successful bidder shall in accordance with 6 NYCRR Part 617.3(a) in conducting conduct a SEQR review before the commencement of the installation of the project. If granted a NYSERDA award, NYSERDA will conduct a project-based review in accordance with the New York State Environmental Quality Review Act (SEQRA) (<http://www.dec.ny.gov/regs/4490.html>) and relevant emissions standards, as appropriate. Only those projects passing this review will be allowed to proceed to contract. PV systems installed on existing buildings with an array area of less than 4,000 square feet are classified as SEQRA Type II actions and will not require further environmental review.

### **Photovoltaics:**

For PV installations, all PV modules must be certified as meeting all applicable standards of the Institute of Electrical and Electronics Engineers (IEEE) and Underwriter's Laboratory (UL) 1703. All inverters must be listed on New York State Public Service Commission certified equipment listing ([http://www3.dps.ny.gov/W/PSCWeb.nsf/96f0fec0b45a3c6485257688006a701a/dcf68efca391ad6085257687006f396b/\\$FILE/Current%20SIR%20Devices%204-29-2014.pdf](http://www3.dps.ny.gov/W/PSCWeb.nsf/96f0fec0b45a3c6485257688006a701a/dcf68efca391ad6085257687006f396b/$FILE/Current%20SIR%20Devices%204-29-2014.pdf)) and of the applicable distribution utility.

### **Metering and Data Acquisition for PV Installations:**

The Bidder must provide, install, and maintain an internet enabled electric meter that displays instantaneous AC power and cumulative total AC energy production and, at a minimum, can record cumulative total AC energy production of the PV system on an hourly basis, store the hourly readings for at least 7 days, and can transmit recorded readings once per day to a NYSERDA designated Data Agent via e-mail, FTP, HTTP or Modbus TCP/IP. The meter must meet the American National Standards Institute (ANSI) C12.20, be Revenue grade with a +/-0.2% accuracy, and be properly calibrated. The meter must also have battery backup to prevent the loss of data during power outages. The Bidder must provide, and maintain, an active internet connection to the meter throughout the Performance Period to support daily data transmissions. Data collected from the meter will be made available to the public at <http://chp.nyserda.org> or other similar website specified by NYSERDA. NYSERDA will verify the Site Actual Annual Energy Production which will inform the magnitude of annual payments.

# **PART 3: PROJECT SPECIFICATIONS**

## **Division 1 - General Requirements**

### **SECTION A - Description of Work**

#### ***1. Work to be Done***

A. The work to be done under the Proposal, in accordance with the Proposal Documents, consists of designing, financing, procuring, performing, installing, furnishing and supplying all materials, equipment, labor and incidentals necessary or convenient for the implementation of Project Number SU060815, titled Solar Power Purchase Power Agreement and carry out all of the duties and obligations imposed upon the Developer by the Proposal Documents.

B. The main features of the work shall include, but not be limited to the following:

1. Development of a PV Solar electric power on SUNY Purchase College where SUNY Purchase will be the Purchaser and the Proposer will be the Developer or Provider in a Power Purchase Agreement (PPA). The Developer will be responsible for the construction, operation and maintenance of the facility pursuant to a Power Purchase Agreement (PPA) granted by SUNY Purchase. The developer / operator would sell electricity back to SUNY Purchase according to the terms of the PPA. SUNY Purchase wishes to establish a photovoltaic array of no more than 2.0 MW (AC) capacity. SUNY Purchase is the host site and off-taker of the energy produced in the array. SUNY Purchase is considering multiple rooftop and possible ground mounted installations. All systems are to comprise a net-metered installation coordinated closely with the local electric utility, Consolidated Edison.

2. All work shall be performed using "Good Utility Practice" which means the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry (in the case of Purchaser) or the Solar power industry (in the case of Provider) during the relevant time period, and any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the region.



C. Project Site Description:

In 2008, the College conducted a solar feasibility study identifying over 7.3 MW of solar capacity for building and ground-mounted projects. The report is available upon request. The winning bidder may choose any of the buildings below and/or choose alternate locations on campus.

Project A: Potential Buildings

The feasibility study identified the following locations, highlighted in blue, on campus for solar installations.



## Project B: Ground Mounted Location

The College has ample locations for ground mounted PV including but not limited to the W-1 and W-2 parking located at the bottom of the map. The solar feasibility study shows that up to 4.6 MW of solar could be installed by constructing a solar carport. However, the College plans to install only up to 2 MW for the entire project.



## **SECTION B - Special Conditions**

### ***1. Cutting and Patching***

A. The Developer shall do all cutting, fitting, and patching of its work that may be required to make its several parts come together properly and fitted as shown upon or reasonably implied from the Drawings and Specifications for the completed project.

B. Any cost caused by defective or ill-timed work shall be borne by the Developer. Except as otherwise expressly provided in the Proposal Documents, the Developer shall not cut or alter the work of any other Developer or existing work without the consent of the College.

C. Existing construction, finishes, equipment, wiring, grounds, etc., that is to remain and which is damaged or defaced by reason of work done under this contract shall be restored by the Developer to a condition satisfactory to the College, or replaced with new, at no additional cost.

D. Existing surfaces, materials, and work shall be prepared as necessary to receive the new installations. Such preparatory work shall be as required by the conditions, and in each case shall be subject to approval by the College.

E. Newly exposed work or surfaces which are presently concealed shall be made to match existing corresponding or adjoining new surfaces as directed, and the materials and methods to be employed shall be subject to approval by the College.

F. All new, altered, or restored work in the building shall match existing corresponding work in the material, construction finish, etc., unless otherwise specified or required by the drawings.

### ***2. Clean-Up***

A. Periodic Cleaning: The Developer shall at all times during the progress of the work keep the Site free from accumulation of waste matter or rubbish and shall confine its apparatus, materials and operations of its workmen to limits prescribed by law or by the Proposal Limit Lines, except as the latter may be extended with the approval of the College. Cleaning of the structure(s), once enclosed, must be performed daily and removal of waste matter or rubbish must be performed at least once a week. All waste debris shall be removed off-site and disposed of in a legal manner by the contractor.

B. Final Clean Up: Upon completion of the work covered by the Agreement, the Developer shall leave the completed project ready for use without the need of further cleaning of any kind and with all work in new condition and perfect order. In addition, upon completion of all work, the Developer shall remove from the vicinity of the work and from the property owned or occupied by the State of New York, the State University of New York or the College, all plant, buildings, rubbish, unused materials, concrete forms and other materials belonging to it or used under its direction during construction or impairing the use or appearance of the property and shall restore such areas affected by the work to their original condition, and, in the event of its failure to do so, the same shall be removed by the College at the expense of the Developer, and it and its surety shall be liable therefor.

### ***3. Developer's Use of Site and Field Requirements***

#### **A. Parking**

1. Parking pass/Permits: The College's Transportation Department will issue contractor parking pass to the principle of each Prime or sub-consultant / subcontractor that needs one. The parking pass requirements are:

a. The passes will be issued on per project basis.

- b. Contractor will be issued permits on annual basis at the prevailing rate, \$35.00 as of 2015, per parking pass.
- c. Parking shall be in a designated College lot as per Facilities Planning and College Police.
- d. No parking on fire lane, grass, sidewalk or other restricted areas are permitted unless specific arrangements are made by the College.
- e. Use of service vehicle parking is short term for 1hr only; unauthorized overtime use will result in a ticket being issued.
- f. All permits must be displayed as required.

## **B. ID Badges**

- 1. All Developers, Consultants, Sub-consultants, contractors and subcontractors working on the College must wear ID badges, which is visible at all times as per the following requirements.
  - a. The developer must coordinate with the College Transportation Department for all ID badges
  - b. Are required for any site on College
  - c. All badges to include company name & logo, personnel name & photo and date.

## **C. Keys**

- 1. Unoccupied project sites: If access is needed, each contractor will need to work with the Facilities Department with consultation with developer, College Police, and Physical Plant to obtain access.
- 2. Occupied sites & restricted areas: When the building is partially occupied during the construction or short term access to the special rooms such as mechanical rooms, etc, the following are required;
  - a. The contractor will arrive at Facilities Office to be sign and receive a key authorized by appropriate personnel.
  - b. The contractor then during working hours from 8:00 AM to 4:30 PM needs to return the key the same day to the Facilities Office. The key not returned by the closing time should be dropped at College Police.
  - c. In event of after hour's projects, the Facilities Office should make prior arrangement with the physical plant and College Police, for contractor to pick up keys at College Police office or for escorted access.

## **D. Construction Parking, Staging, and Access to the Site**

- 1. Parking will be provided at the current cost as determined by the Transportation Office per parking pass per academic school year for the developer and any contractor associated with this project. However, if there is not enough space for all its employee parking and/or its employees choose on their own to use College Parking spaces, additional contractor employee parking will be permitted and arranged within College Parking lots on a limited basis, as approved by the College and subject to applicable College traffic regulations and parking fees. Developer to submit in writing, number of parking permits required. Parking permits are not transferable and will be issued on the first day of work by the Transportation Office. Permits need to be returned to the Facilities Office upon project completion.
- 2. The developer (at its own expense) is permitted to place its trailer/field office to be located in an approved construction parking and staging area and shall provide all facilities for its own use; such as office equipment, telephone, power, heat, etc.
- 3. Temporary parking for loading and/or unloading shall be arranged with prior approval by the College.

4. Developer shall keep access routes and parking areas used for the work, clean of debris and other obstruction resulting from the work.

#### **4. Field Meetings**

Periodic job meetings will be scheduled by the Developer and the College during the course of the agreement. The Developer, and, upon request of the College, its principal subcontractors and manufacturer's representatives, shall attend such meetings and be prepared to furnish answers to questions on progress, workmanship, or any other subject on which the College might reasonably require information.

#### **5. Operating Instructions and Manuals, System Manuals, and As Built Drawings:**

Provide accurate and complete operating instructions, manuals and as-built drawing documentation including the work of all trades and integrators associated with the project development.

#### **6. Utility Shutdowns and Cut Overs**

A. In order to provide the College community with thorough and timely notification of pending utility outages, the procedure detailed below shall be adhered to for all but emergency situations.

Emergency situations are ones in which rapid action is required to shutoff a utility service to prevent personnel injury, to ensure public safety, and/or to prevent significant damage to a building or equipment.

At least two (2) working weeks prior to a proposed outage, notification must be made using the utility shutdown request form. The written notification must include the following information:

- a. the proposed date(s) and time;
- b. the location and areas affected;
- c. the utility to be shut off;
- d. the reason for the outage;
- e. a broader range of dates and times within which the outage could be scheduled in the event that the proposed date(s) are not feasible (if boarder window is not possible, provide justification);
- f. the name and telephone number of your organization point of contact for scheduling.

The Facilities Office will provide you with a response to your request no later than two working days prior to the proposed outage date. It is recommended that you not wait to provide notification of pending outages; notification prior to the five working-day limit would facilitate the process. The Facilities Office will also notify the College community,

B. Except as otherwise expressly provided in the Proposal Documents, the Developer shall be responsible for submitting to the College, for its approval, a proposed schedule of all utility shutdowns and cut overs of all types which will be required to complete the project; said schedule should contain a minimum of two (2) week's advance notice prior to the time of the proposed shutdown and cut over. Most Colleges of the State University of New York are in full operation 12 months of the year, and shutdowns and cut overs, depending upon their type, generally must be scheduled on weekends, at night, or during holiday periods. The contract consideration is deemed to include all necessary overtime and all premium time, if any, that is required by the Developer to complete the shutdowns or cut overs.

C. Temporary Connections: In the event the Developer shall disrupt any existing services, the Developer shall immediately make temporary connection to place such service back into operation and maintain the temporary connection until the Developer makes the permanent connection. All work must be acceptable to the College.



## **7. Temporary Power for Construction Activities**

Electrical energy will be available at no cost to the Developer from existing outlets or panels from locations approved by the College. This power may be used for small power tools (not exceeding ½ HP), etc., and the Developer shall not exceed the capacity of the existing circuits being used. The Developer shall be responsible for providing all necessary connections, cables, etc. and removal of the same at completion of construction with approval from the College. The Developer shall in no way modify the existing circuits at the panel boards to increase capacities of the circuits. If the required power load exceeds the capacities of the available power sources, the Developer shall be responsible and pay for furnishing and installing all necessary temporary power poles, cables, fused disconnect switches, transformers and electric meters necessary to provide a temporary power system for the project, and remove the same at completion. Install all temporary wiring and equipment and make all connections in conformity with the National Electrical Code. Make all replacements required by temporary use of the permanent wiring system. Provide ground fault protection.

## **8. Sanitary Facilities**

The Developer will be permitted to use existing toilet and janitor closet facilities as designated by the College provided the existing facilities are not misused, defaced, or left in an unsanitary condition. If the College deems that the existing facilities have been subject to misuse or left unsanitary, the Developer shall be informed and caused to install and maintain (at its own cost) temporary, sanitary facilities at approved locations. The Developer shall also be held responsible for the cost of cleaning and repair of any damage to said existing facilities and adherence to health and sanitary codes of the State of New York.

## **9. Temporary Heat**

A. In those locations where it is required by the conditions of the work, the Developer shall provide and pay for all temporary heating, coverings and enclosures necessary to properly protect all work and materials against damage by dampness and cold, dry out the work, and facilitate the completion thereof. Fuel, equipment, materials, operating personnel and the methods used therefor shall be at all times satisfactory to the College and adequate for the purpose intended. The Developer shall maintain the critical installation temperatures, provided in the technical provisions of the specifications hereof, for all work in those areas where the same is being performed.

B. Maintenance of proper heating, ventilation and adequate drying out of the work is the responsibility of the Developer. Any work damaged by dampness, insufficient or abnormal heating shall be replaced to the satisfaction of the College by and at the sole cost and expense of the Developer.

C. The Developer shall provide all necessary, temporary heating for the efficient and effective work by itself and all trades engaged in the work. Unless otherwise specified, the minimum temperature shall be 50 degrees F at all places where work is actually being performed within the project (where enclosed). Before and during the placing of wood finish and the application of other interior finishing, varnishing, painting, etc., and until final acceptance by the College of all work covered by the Proposal, the Developer shall, unless otherwise specified in the Proposal Documents, provide sufficient heat to produce a temperature of not less than 68 degrees F nor more than 78 degrees F.

## **10. Temporary Light**

The contractor shall install, maintain and remove Underwriter's Label temporary lighting sockets, light bulbs, and intermittent power sockets as approved by the College. The minimum temporary lighting to be provided is at the rate of 1/4 watt per square foot and be maintained for 24 hours, 7 days per week at stairs and exit corridors; in all other spaces,

temporary lighting is to be maintained during working hours. Installation shall be in accordance with the National Electric Code.

### **11. Temporary Water for Construction Purposes**

Water for construction is available through the College system without charge to the Developer from location designated by the College. The Developer shall obtain the necessary permission, make all connections, as required, furnish and install all pipes and fittings, and remove the same at completion of work. The Developer must provide for wastewater discharge and shall take due care to prevent damage to existing structures or site and the waste of water. All pipes and fittings must be maintained in perfect condition at all times.

### **12. Conducting Work**

- A. All work is to be conducted in such a manner as to cause a minimum degree of interference with the College's operation and academic schedule.
- B. Safe and direct entrance to and exiting from the existing buildings shall be maintained at all times during regular hours while construction is in progress.
- C. No construction work will start in any area until the Developer has all the required materials on-site.
- D. The Developer and its employees shall comply with College regulations governing conduct, access to the premises, and operation of equipment.
- E. The building shall not be left "open" overnight or during any period of inclement weather. Temporary weather tight closures shall be provided for/by the Developer to protect the structure and its contents.

### **13. Safety and Protective Facilities**

- A. The Developer shall provide the necessary safeguards to prevent accidents, to avoid all necessary hazards and protect the public, the Staff, students, the work and property at all times, including Saturdays, Sundays, holidays and other times when no work is being done.
- B. The Developer shall erect, maintain and remove appropriate barriers or other devices, including mechanical ventilation systems, as required by the conditions of the work for the protection of users of the project area, the protection of the work being done, or the containment of dust and debris. All such barriers or devices shall be provided in conformance with all applicable codes, laws and regulations, including OSHA and National Fire Prevention Association 241, for safeguarding of structures during construction.

### **14. Protection of Existing Structures, Vegetation and Utilities**

The Developer, during the course of its work, shall not damage any buildings, structures and utilities, public or private, including poles, signs, services to buildings, utilities in the street, gas pipes, water pipes, hydrants, sewers, drains and electric power and lighting and telephone cables, lawns, curbs, plants and other improvements. Any damage resulting from the Developer's operations shall be repaired or replaced at its expense to the satisfaction of the College.

### **15. Use of Elevators**

The Developer shall be permitted to make temporary use of elevators designated by the College provided such use does not interfere with the normal activities of the College. Large and heavy items shall not be placed in elevators, and suitable padding shall be provided whenever a cab is used for construction purposes. Elevator pits shall be kept free of debris and dust by frequent cleaning out. Prior to use and post use, the elevators will be re-inspected to ensure proper

operation. Any maintenance as a result of use will be the contractor's responsibility. The elevators shall be restored to original condition satisfactory to the College at the end of construction activities.

#### **16. Salvage of Materials**

Remove and legally dispose of all debris and other materials resulting from the alterations to State College property, unless otherwise tagged for salvage by the College or regulated wastes where ownership is defined by law. Salvage items to be tagged by the College prior to the pre-bid walkthrough. Developer shall use care in removal of salvage items to prevent damage. Turn over salvage at site and receive receipt from College.

#### **17. Storage of Materials**

A. The Developer shall store materials and equipment within the contract limits in areas on the site as designated by the College.

B. All materials shall be stored in a neat and orderly manner, and shall be protected against the weather by raised-floored weatherproof temporary storage facility or trailer.

C. Security for stored materials shall be the responsibility of the Developer.

D. Storage of materials is not permitted on the roof of any building.

#### **18. Submittals Shop Drawings and Samples Procedures**

A. It is the intent of this proposal for the Developer to comply with common construction industry standards for the Submittal, Shop Drawings and Sample Procedures and as described below.

Deviations to the following and common construction industry standards need to be approved in writing prior to acceptance by the Owner.

1. Submit the following information to the College for review:

- i. Shop Drawings
- ii. Product Data
- iii. Samples
- iv. Structural Design information
- v. Certificates
- vi. Reports
- vii. Submittals for procedures NOT defined elsewhere
- viii. Specific submittals described in individual sections elsewhere.

2. Form of submittals:

i. Submit two (2) complete proposals, one of which must have original signatures. A PDF copy on CD is to be included.

ii. Developer is responsible for hosting or the storage of the submittals for the period of design, construction and one year after start up and production of the facility.



iii. After the Developer's responsibility for hosting / storage of the submittals has ended, all documents associated with the Submittal Shop Drawings and Sample Procedures are to be turned over to the Purchaser as PDF or some other agreed to format acceptable to both parties.

B. Developer shall submit to the College for its approval electronically all shop drawings required by the specifications.

C. All shop drawings and/or submittals used on the construction site must bear the impression of the consultant's review stamp as well as the General Developer's review stamp, indicating the status of review and the date of review.

D. All shop drawings shall reflect actual site conditions and accurate field dimensions. Dimensioned shop drawings shall be submitted for all fabricated items. Incomplete submittals will be rejected without review.

E. All shop drawings, submittals and samples shall include:

1. Date and revision dates.

2. Project title and number.

3. Names of:

a. Developer

b. Subcontractor

c. Supplier

d. Manufacturer

4. Identification of products or materials: Include Department of State (DOS) file number, manufacturers' name and market name of all covered products and applicable materials in accordance with Part 1120 of the Code. This information may be obtained by contacting the DOS, Office of Fire Prevention and Control: 518 474-6746 [voice] and 518 474-3240 [fax]

F. Timing of Submittals:

1. Deliver each submittal requiring approval in time to allow for adequate review and processing time, including resubmittals if necessary; failure of the Developer in this respect will not be considered as grounds for extension of the agreement time.

2. Deliver each informational submittal prior to the start of work, unless the submittal is of a type which cannot be prepared until after completion of the work; submit promptly.

3. If a submittal must be processed with a certain time in order to maintain the progress of the work, state so clearly on the submittal.

4. If a submittal must be delayed for coordination with other submittals not yet submitted, the architect may at his option either return the submittal with no action or notify the contractor of the other submittals which must be received before the submittal can be reviewed.

## G. Submittal Procedures – General:

1. Developer's Review: Sign each copy of each submittal certifying compliance with the requirements of the proposal documents.
2. Notify the Owner, in writing and at time of submittal, of all points upon which the submittal does not conform to the requirements of the contract documents, if any.

H. It is the responsibility of the Developer that the approved submittals are available and posted at the location of work.

## **19. U.S. Steel**

All structural steel, reinforcing steel, or other major steel items to be incorporated in the work shall, if this Proposal is in excess of \$100,000, be produced or made in whole or substantial part in the United States, its territories or possessions.

## **20. Non-Asbestos Products**

A. All materials specified herein shall contain no asbestos.

B. Provide "Contains No Asbestos" permanent labels applied to the exterior jacket of all pipe insulation at 20 foot intervals with a minimum of one (1) label for each service in each work area.

## **21. Material Safety Data Sheet**

The contractor shall submit MSDS (Material Safety Data Sheet) for all chemicals, solvents, and materials specified or proposed to be used on this project.

## **22. Architect's/Engineer's Seal**

In accordance with Rules and Regulations of the New York State Education Law, Title 8, Part 69.5(b), to all plans, specifications and reports to which the seal of an architect has been applied, there shall also be applied a stamp with appropriate wording warning that it is a violation of the law for any person, unless acting under the direction of a licensed architect, to alter an item in any way. If an item bearing the seal of an architect is altered, the altering architect shall affix to his item the seal and the notation "altered by" followed by his signature and the date of such alteration, and a specific description of the alteration.

## **23. Other Contracts and / or Agreements**

There may be other contracts let for work to be done in adjacent areas and, as such, this Developer and such other contractors/developer subcontractors shall coordinate their work to conform with progressive operation of all the work covered by such contracts, and afford each other reasonable opportunities for the introduction and storage of their supplies, materials, equipment, and the execution of their work.

## **24. Asbestos**

If the work to be done under this contract contains the abatement of asbestos the following shall apply:

A. Applicable Regulations - All work to be done under this Contract shall be in compliance with Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York (cited as 12 NYCRR Part 56) and all amendments thereto.

B. Applicable Variance - The abatement contractor is responsible for obtaining any variance not issued to date that he feels may be applicable to the policies/procedures as set forth in 12 NYCRR Part 56.

C. Owner Project Fact Sheet -The Developer shall complete and submit as much information as possible on the Asbestos Material Fact Sheet to the College in triplicate prior to the project startup. Completion of the Fact Sheet shall be submitted prior to acceptance.

D. Patent Infringement - The State University of New York and the State University Construction Fund have been given notice by a law firm representing GPAC, Inc. that the use of its process/procedure for asbestos containment and removal constitutes a patent infringement. All potential contractors are hereby notified that they may have to obtain a license to use certain patented Negative Air Containment systems, and that any liability of the College in connection therewith is covered by Section 2.21 of the Agreement. Therefore, all potential contractors are hereby notified that after opening of the bids they must advise the College as to the system they intend to use for Negative Air Containment and provide the College with either a copy of their license to use the same or written documentation, signed by an authorized officer of their surety, that their performance bond guarantees the Developer's indemnification covering patent claims.

E. Air Monitoring - The abatement contractor shall be responsible for hiring and paying an independent third party firm to perform the requirements of air monitoring as called for in Subpart 56-17 of 12 NYCRR Part 56.

F. Testing - The College reserve the right to employ an independent testing laboratory to perform testing on the work and air sampling. The Developer shall be required to cooperate with the testing laboratory.

G. Disposal Procedures - It is the responsibility of the asbestos contractor to determine current waste handling, transportation and disposal regulations for the work site and for each waste disposal landfill. The asbestos contractor must comply fully with these regulations, all appropriate U.S. Department of Transportation, EPA and Federal, State and local entities' regulations, and all other current legal requirements. Submit originals or copies of all pertinent manifests in triplicate to the College.

H. Submittals - Prior to commencement of the work on this project, the Developer must submit the following to the College:

1. Copy of original insurance policy.
2. Copy of Department of Labor notification.
3. Owner Fact Sheet.
4. Copy of EPA notification.

I. Special Requirements -

1. Size, location, and quantities of all pipes, joints, ducts, valves, tees, etc. must be field verified by all prospective bidders. Information given on the drawings and specifications is for general orientation and information only.
2. The Developer shall have at least one English-speaking supervisor on the job site at all times while the project is in progress.

3. Prior to the commencement of work involving asbestos demolition, removal, renovation, the Developer must submit to the College the name of its on-site asbestos supervisor responsible for such operations, together with documentation that such supervisor has completed an Environmental Protection Agency-approved training course for asbestos supervisors.

## **25. Construction Waste Management**

### **A. Definitions**

1. Construction Waste: Building and site improvement materials and other solid waste resulting from construction, remodeling, renovation, or repair operations. Construction waste includes packaging.

2. Disposal: Removal off-site of demolition and construction waste and subsequent sale, recycling, reuse, or deposit in landfill or incinerator acceptable to authorities having jurisdiction.

3. Recycle: Recovery of demolition or construction waste for subsequent processing in preparation for reuse.

4. Salvage: Recovery of demolition or construction waste and subsequent sale or reuse in another facility.

5. Salvage and Reuse: Recovery of demolition or construction waste and subsequent incorporation into the Work.

### **B. Performance Goals:**

1. Owner's goal is to have developer salvage and recycle as much nonhazardous construction waste as possible including the following materials:

- a. Masonry and CMU
- b. Lumber
- c. Wood Sheet Materials
- d. Wood Trim
- e. Metals
- f. Roofing
- g. Insulation
- h. Carpet and Pad
- i. Gypsum Board
- j. Piping
- k. Electrical Conduit

l. Packaging: regardless of salvage/recycle goal indicated above, salvage or recycle 100 percent of the following uncontaminated packaging materials:

- i. Paper
- ii. Cardboard
- iii. Boxes
- iv. Plastic sheet and film
- v. Polystyrene packaging
- vi. Wood crates

vii. Plastic pails.

### C. Waste Management Plan

1. General: Develop plan consisting of waste identification, waste reduction work plan, and cost/revenue analysis. Indicate quantities by weight or volume, but use the same units of measure throughout waste management plan.
2. Work Plan: List each type of waste and whether it will be salvaged recycled or disposed of in landfill or incinerator. Include points of waste generation, total quantity of each type of waste, quantity for each means of recovery, and handling and transportation procedures.
3. Work Plan Approval/Implementation: Implement waste management plan as approved by Architect. Provide handling, containers, storage, signage, transportation, and other items as required to implement was management plan during the entire duration of the Proposal.
4. Training: Train workers, subcontractors, and suppliers on proper waste management operations to endure minimum interference with roads, streets, walks, walkways, and other adjacent occupied and used facilities.
5. Site Designations: Designate and label specific areas on Project site necessary for separating materials that are to be salvaged, recycled, reused, donated, and sold.

### D. Waste Management Report

1. Concurrent with the Final Application for Payment submit one copy of the Waste Management Report. Include separate reports for demolition and construction waste. Include the following information:
  - a. Material category
  - b. Generation point of waste
  - c. Total quantity of waste recycled, actual in tons.
  - d. Total quantity of waste deposited in landfill or incinerator, actual in tons
  - e. Total quantity of was recycled as a percentage of total waste.

## **PART 4: SUBMISSION REQUIREMENTS**

### **Preparing a Proposal**

As is described in more detail below, each proposal will consist of three components, or “packages.” The first is the Bidder Qualification Package, which will be reviewed to determine, on a pass/fail basis, whether the proposing team is capable and competent to complete the installation(s). The second component consists of one or more Project Site Packages. Each Project Site Package must include information and documentation with respect to an individual project that will allow the panel to determine whether the project is eligible and whether it can be completed within the program Timely Completion limit of eight (8) months from (NYSERDA) award notification. The third package will consist of one or more Bid Cost Proposal Forms -- one for each Project Site Package. The Bid Cost Proposal Form includes information including the Incentive Bid for the project, in dollars per kWh, including any escalation rate, by which it will be ranked for consideration of the NYSERDA and the estimated 25-year energy cost to SUNY Purchase.

Do not include unnecessary attachments beyond those sufficient to present a complete, comprehensive, and effective response.

### **Cover Letter**

The cover letter should include an executive summary and highlight any special features of the proposal or project(s). The cover letter must be signed by a person with the authority to make a commitment on behalf of the developer.

### **Proposal Outline:**

Each proposal must contain the following three (3) sections: (1) Bidder Qualification Package; (2) Project Site Package(s); (3) Bid Cost Proposal Form(s)

#### **1.0 Bidder Qualification Package**

This package must include the following information regarding the Bidder’s experience and qualifications.

- Completed and signed Proposal Checklist (Attachment A)
- Completed and signed Disclosure of Prior Findings of Non-responsibility Form (Attachment B)
- Cover Letter – The cover letter should include an executive summary and highlight any special features of the proposal or project(s)
- Members of Bidder’s Team, Qualifications, Experience and References

#### **Team Members**

1. Identify the Team leader for the entire proposal, including full contact information.
2. Identify the team members (companies/individuals) responsible for each part of the project.
3. Provide an organizational chart that describes the reporting relationships of all key personnel.
4. Provide resumes of key personnel who will be directly involved with the implementation of the proposed project.
5. Provide Company Profiles for all major Team participants that include:
  - a. Year founded
  - b. Status (private/publicly-held)
  - c. Number of employees
  - d. States and countries in which they do business

- e. Target customers (residential, commercial, industrial, government, etc.)
- f. Location of Offices

### ***Project Design and Installation Experience***

Provide total and annual number of installations and aggregated Capacity of previous installations performed by the team members over the last three (3) years for the technology proposed. Also identify responsibilities of the team members for the installations.

### ***Recent Project References***

Provide at least 3 letters, each signed by a representative of the site where a system was installed or developed by a member on the Bidder's team. The installations should be for the same eligible technology as the installation proposed and be comparable in size or complexity to the largest and most complex of the installation(s) proposed. The letters must include:

- Electric customer name, address and contact information
- Name of installer and/or developer company
- Site location
- System description
- Date installed
- System Capacity rating
- Statement as to overall satisfaction

### ***Quality Assurance Plan***

Provide a detailed description of the Quality Assurance Plan to ensure that the installation will be completed in accordance with industry standards and practices. Also include the warranties offered as part of the individual installation and a detailed description of the service and maintenance capabilities of the Bidder's team.

### ***Project Financial Model***

Bidder shall provide a detailed Project Financial Model that at a minimum examines revenue, financing, costs and especially the assumptions and logic behind how the project will be executed throughout its life. It should also include a sensitivity analysis on key revenue and cost variables.

In addition, the Project Financial Model should discuss and substantiate the amount of capital the developer needs, the amount to be solicited from NYSERDA via a PON, the proposed use of these funds, and the expected future earnings. It should include Projected Income, and Cash Flow, broken out quarterly for the first three years, and annually for the remaining years.

## **2.0 Project Site Package(s)**

The College is requesting one summary proposal for several buildings and locations on College:

Based on the review of site package proposals submitted, SUNY Purchase will select the Site that best fits the College's sustainable energy goals, projected availability of funds and likelihood of obtaining a NYSERDA award.

The Bidder will submit separate technical proposals for each site. The proposals are to include component information and specifications, site drawings and plans, project timelines, implementation plan, and list contractors and subcontractors.

### **3.0 Site Cost Proposal Forms**

Separate forms are to be completed for each site. The forms are in two parts:

Part 1 provides for the total project construction cost and first three years of energy production and the incentive award that the developer will be submitting to NYSERDA.

Part 2 provides for the estimated 25-year cost for electricity sold to the College for each site.

### **4.0 Project Assignment After PPA is Approved by New York State Office of the State Comptroller**

Please indicate whether the project will be assigned to a third party entity (financing entity of Tax Equity Investor) before or after the project is completed. If so, please provide the following in your proposal:

1. The name of the Tax Equity Special Project Vehicle (SPV) that the project or power purchase agreement will be assigned to, if known
2. The shareholding structure and shareholders of the SPV.
3. A graphical representation or overview SPV structure and its interrelationship with other project stakeholders.
4. Vendors Responsibility Vendors Responsibility and Procurement Lobbying forms that will be provided by the College
5. SPV Substitute W-9 forms
6. SPV application for certification of attestation from New York State Workers Compensation and Disability Benefits Insurance.



## **PART 5: EVALUATION AND AWARD**

### **CONTRACTOR MINIMUM QUALIFICATION REQUIREMENTS**

Bidders must satisfy the following minimum qualifications. All qualifications will be evaluated on a “pass/fail” basis. Bidders must submit supporting documentation to evidence their ability to satisfy each qualification. If any bidder is not able to satisfy any qualification, their bid will be rejected.

1. All prospective bidders are hereby notified that they must submit with the bid, detailed written documentation, to prove to the satisfaction of Purchase College, that they have the skill and experience, as well as the necessary facilities, ample financial resources, organization and general reliability to do the work to be performed under the provisions of the Contract in a satisfactory manner and within the time specified.
2. Each bidder must be prepared to show to the satisfaction of the College that it has working capital available for the Project upon which it is bidding in an amount equal to 15 percent of the first \$100,000 of the amount of its Total Bid plus 10 percent of the next \$900,000 plus 5 percent of the remainder of its Total Bid. Working capital is defined as the excess of current assets over current liabilities. The College defines current assets as assets which can be reasonably expected to be converted into cash within a year, and current liabilities as debts which will have to be paid within a year.
3. The bidder must also be prepared to prove, to the satisfaction of the College that it has successfully completed a contract of similar work in an amount of not less than 50 percent of the amount of its Total Bid.

#### **Experience**

1. Was all of the required team member information provided as listed in the Developer Qualification section?
2. Does the experience presented in the proposal support the installation proposed, including consideration of the technology and the electric customer sector?

#### **References**

1. Were three applicable references for previous installations that attest to the competency of the Bidder included in the proposal?
2. Were these installations in the technology proposed and of comparable size and complexity as that being proposed?
3. Were the installations installed within the last three years?
4. Experience within the past five years?

#### **Implementation Schedule**

1. Does the schedule support completion of the installation within an 8 month period?
2. Is the schedule realistic given the size of the installation proposed?

#### **Project Site Packages**

1. Is the required information included?
2. Is the required documentation included?

## Quality Assurance Plan

1. Does the Bidder have a formal documented quality assurance plan in place?
  2. Does the quality plan address items such as industry standards followed, service and maintenance capabilities, and warranties offered?
  3. Are the service and maintenance capabilities sufficient to ensure continued quality operation of the installation(s)?
- Project Site Checklist has been completed and submitted along with all required documentation/information.

## PROPOSAL EVALUATION

### Proposal Evaluation Criteria

Proposals will be evaluated and scored on the basis of the following criteria, which will be accorded the relative weight indicated in parentheses, the information subject to evaluation should be clearly shown within the submitted proposal format:

### Evaluation Points

Proposals will be evaluated using the factors and sub-factors specified below:

Pricing and Economic Risk (35 points),

Technical (25 points),

Management (20 points)

Project-Specific Performance Risk (20 points).

The sub-factors contained under each factor are of equal importance.

**Pricing and Economic Risk Considerations (35 Points):** The pricing and economic risk-assessment considers the Proposer's past and present performance, including those of key personnel, as related to the probability of successfully accomplishing the proposed effort. The company's financial soundness and strength, the price of energy proposed, the Proposer's ability to assure the price offered, achieve the guaranteed energy and operational savings, local and national track record of successful energy projects, industry expertise, customer satisfaction and quality standards for performance are to be considered in this section.

Sub-factor: The degree to which the proposal demonstrates an understanding of, and benefits, general economic conditions in the community. To this end, to the extent that a proposal includes specific sites, the viability and desirability of the site or sites will be evaluated including whether such sites are under proposer's control through ownership, lease or other means.

**Technical Factor (25 Points):** Information considered in evaluation of this factor and sub-factors include:

Sub-factor 1: The degree to which the proposal demonstrates the technical feasibility, suitability, reasonableness, comprehensiveness, and acceptability of the proposed projects, and proposed selected equipment for the projects.

Sub-factor 2: The degree to which the proposal demonstrates sound engineering principles, and the reasonableness of the proposed energy costs.

Sub-factor 3: The degree to which the Proposer demonstrated prior experience in the installation of projects, comparable in size or complexity to the largest and most complex of the installation(s) proposed.

Sub-factor 4: The degree to which the Proposer can provide a detailed quality assurance plan demonstrating ability to specify top quality renewable energy equipment, and to ensure that the installation will be completed in accordance with industry standards and practices.

**Management Factor (20 Points):** The management factor considers the degree to which the proposed management and implementation approach provide for effective organization, management, and control to accomplish the proposed projects. Information considered in evaluation of this factor and sub-factors includes the proposed management organization, roles and responsibilities, qualifications and experience of key personnel, proposed selection and quality control for subcontractor's work, installation and implementation schedule, and impact on facilities and operations.

Sub-factor 1: The degree to which the proposal demonstrates the adequacy of the proposed organization to manage and accomplish the proposed project.

Sub-factor 2: The degree to which the proposal demonstrates the qualifications and experience of key personnel to meet the technical requirements of the proposed project.

Sub-factor 3: The degree to which the proposal demonstrates the ability to provide a turnkey project, engineering, project management, measurement & verification, and financing.

Sub-factor 4: The degree to which the proposal incorporates at least 15% minority-owned and 15% percent minority-owned/woman-owned business enterprises (MWBE).

**Project-Specific Performance Risk (20 points):** Information considered in evaluation of this factor and sub-factors include:

Sub-factor 1: The degree to which the proposed project finance is contingent on capital sources outside Proposer's immediate control.

Sub-factor 2: The degree to which the proposed project is contingent on successfully acquiring regulatory approvals for construction.

Sub-factor 3: The degree to which the proposal quantifies the local positive and negative impacts, including social, environmental (including farmland utilization impacts), recreational, aesthetic, historic, cultural, employment and economic impacts (including the taxable status of any proposed site, whether a site is located within the municipality's jurisdiction, and whether eligible municipal property for a proposed site has been considered).

The College reserves the right to assign representatives to verify the qualifications submitted. In addition, the College reserves the right to visit locations now serviced by the proposer.

## **Award**

Award will be made to the responsible bidder earning the highest total score (Maximum = 100). SUNY Purchase reserves the right to correct inaccurate awards resulting from its administrative errors.

A Notice of Intent to Award shall be sent to the selected bidder. The Notice of Intent to Award shall constitute an offer by SUNY Purchase to enter into negotiations to come to a formal contract agreement.

## **Part 6: NYSERDA PON**

SUNY Purchase will work with the successful bidder / developer to submit an application to NYSERDA. Award of the PPA is contingent upon the receipt of the NYSERDA award.

<http://ny-sun.ny.gov/Get-Solar/Commercial-and-Industrial>

## **Part 7: PURCHASE POWER AGREEMENT (PPA)**

A Purchase Power Agreement will be negotiated with the successful bidder / developer for the twenty-five year period.

The PPA template is available at <http://www.purchase.edu/Departments/Purchasing/current-rfp-opportunities.aspx>

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

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

2. **PROHIBITION AGAINST ASSIGNMENT** Except for the assignment of its right to receive payments subject to Article 5-A of the State Finance Law, the Contractor selected to perform the services herein are prohibited in accordance with Section 138 of the State Finance Law from assigning, transferring, conveying, subletting or otherwise disposing of its rights, title or interest in the contract without the prior written consent of SUNY and attempts to do so are null and void. Notwithstanding the foregoing, SUNY may, with the concurrence of the New York Office of State Comptroller, waive prior written consent of the assignment, transfer, conveyance, sublease or other disposition of a contract let pursuant to Article XI of the State Finance Law if the assignment, transfer, conveyance, sublease or other disposition is due to a reorganization, merger or consolidation of Contractor's its business entity or enterprise and Contractor so certifies to SUNY. SUNY retains the right, as provided in Section 138 of the State Finance Law, to accept or reject an assignment, transfer, conveyance, sublease or other disposition of the contract, and to require that any Contractor demonstrate its responsibility to do business with SUNY.

3. **COMPTROLLER'S APPROVAL.** (a) In accordance with Section 112 of the State Finance Law, Section 355 of New York State Education Law, and 8 NYCRR 316, Comptroller's approval is not required for the following contracts: (i) materials; (ii) equipment and supplies, including computer equipment; (iii) motor vehicles; (iv) construction; (v) construction-related services; (vi) printing; and (vii) goods for State University health care facilities, including contracts for goods made with joint or group purchasing arrangements.

(b) Comptroller's approval is required for the following contracts: (i) contracts for services not listed in Paragraph (3)(a) above made by a State University campus or health care facility certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds \$250,000; (ii) contracts for services not listed in Paragraph (3)(a) above made by a State University campus not certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds \$50,000; (iii) contracts for services not listed in Paragraph (3)(a) above made by health care facilities not certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds \$75,000; (iv) contracts whereby the State University agrees to give something other than money, when the value or reasonably estimated value of such consideration exceeds \$10,000; (v) contracts for real property transactions if the contract value exceeds \$50,000; (vi) all other contracts not listed in Paragraph 3(a) above, if the contract value exceeds \$50,000, e.g. SUNY acquisition of a business and New York State Finance Article 11-B contracts and (vii) amendments for any amount to contracts not listed in Paragraph (3)(a) above, when as so amended, the contract exceeds the threshold amounts stated in Paragraph (b) herein. However, such pre-approval shall not be required for any contract established as a centralized

contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

(c) Any contract that requires Comptroller approval shall not be valid, effective or binding upon the State University until it has been approved by the Comptroller and filed in the Comptroller's office.

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

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

6. **WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law,

the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by SUNY of any SUNY-approved sums due and owing for work done upon the project.

7. **NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based on the submission of competitive bids, Contractor affirms, under penalty of perjury, and each person signing on behalf of Contractor, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered it to SUNY a non-collusive bidding certification on Contractor's behalf.

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

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

10. **RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as SUNY and its representatives and

entities involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. SUNY shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate SUNY official, in writing, that said Records should not be disclosed; and (ii) said Records shall be sufficiently identified; and (iii) designation of said Records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, SUNY's or the State's right to discovery in any pending or future litigation.

#### 11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

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

#### 12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

(a) In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition,

construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

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

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

(b) Contractor will include the provisions of "1", "2" and "3", above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a Contractor or sub-contractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. SUNY shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, SUNY shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

17. **SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or

upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. **PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165 (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with the approval of the State, otherwise, the bid may not be considered responsive. Under bidder certification, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. **MacBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that Contractor and any individual or legal entity in which the Contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the Contractor either (a) have no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165(5) of the State Finance Law), and shall permit independent monitoring of compliance with such principles.

#### 20. OMNIBUS PROCUREMENT ACT OF 1992.

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

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

NYS Department of Economic Development  
Division for Small Business  
30 South Pearl St., 7th Floor  
Albany, NY 12245  
Tel: 518-292-5100  
Fax: 518-292-5884  
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:  
NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue  
New York, NY 10017  
212-803-2414

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

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:



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

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

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

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

#### 21. RECIPROCITY AND SANCTIONS

**PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act of 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. Contact the NYS Department of Economic Development, Division for Small Business, 30 South Pearl Street, Albany, New York 12245, for a current list of jurisdictions subject to this provision.

**22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW** If this is a contract for consulting services, defined for purposes of this

requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal or similar services, then in accordance with Section 163(4-g) of the State Finance Law, the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to SUNY, the Department of Civil Service and the State Comptroller.

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

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

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

in accordance with the terms of the agreement, if SUNY determines that such action is in the best interests of the State.

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

<http://www.oqs.ny.gov/about/regs/docs/ListofEntities.pdf>

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

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

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

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

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

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

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

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

## Exhibit A-1: Affirmative Action Clauses

Affirmative Action Clauses  
State University of New York

# EXHIBIT A-1

December 12, 2014

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

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

**SUBCONTRACT** herein referred to as "Subcontract", shall mean any agreement for a total expenditure in excess of \$25,000 providing for services, including non-staffing expenditures, supplies or materials of any kind between a State agency and a prime contractor, in which a portion of the prime contractor's obligation under the State contract is undertaken or assumed by a business enterprise not controlled by the prime contractor.

**WOMEN-OWNED BUSINESS ENTERPRISE** herein referred to as "WBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more United States citizens or permanent resident aliens who are women; (b) an enterprise in which the ownership interest of such women is real, substantial and continuing; (c) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars (\$3,500,000), as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

A firm owned by a minority group member who is also a woman may be certified as a minority-owned business enterprise, a women-owned

business enterprise, or both, and may be counted towards either a minority-owned business enterprise goal or a women-owned business enterprise goal, in regard to any Contract or any goal, set by an agency or authority, but such participation may not be counted towards both such goals. Such an enterprise's participation in a Contract may not be divided between the minority-owned business enterprise goal and the women-owned business enterprise goal.

**MINORITY-OWNED BUSINESS ENTERPRISE** herein referred to as "MBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more minority group members; (b) an enterprise in which such minority ownership is real, substantial and continuing; (c) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars (\$3,500,000.00), as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

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

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

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

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

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

(c) As part of the Contractor's EEO policy statement, the Contractor, as a precondition to entering into a valid and binding State Contract, shall agree to the following in the performance of the State Contract: (i) The Contractor will not discriminate against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State Contracts; (ii) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the State Contract, all qualified applicants will be afforded equal employment opportunities without discrimination; (iii) At the request of the University the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate, and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

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

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

(i) Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to SUNY of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

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

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

(f) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

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

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

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

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

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

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

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

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

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

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

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

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

(f) Whether Contractor encourages and utilizes minority group members and women employees to assist in recruiting other employees.

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

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

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

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

(b) Whether Contractor has attempted to make project plans and specifications available to firms who are not members of associations with plan rooms and reduce fees for firms who are disadvantaged.

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

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

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

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

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

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

#### **6. MWBE Utilization Plan.**

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

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

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

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

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

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

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

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

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

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

- i. If a Contractor fails to submit a MWBE Utilization Plan;
- ii. If a Contractor fails to submit a written remedy to a notice of deficiency in a MWBE Utilization Plan;
- iii. If a Contractor fails to submit a request for waiver; or
- iv. If the MWBE Program Office determines that the Contractor has failed to document Good Faith Efforts.

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

(h) Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, SUNY shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

#### **7. Waivers.**

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

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

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

#### **8. Quarterly MWBE Contractor Compliance Report.**

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report (Form 7557-114) to the University by the 5<sup>th</sup> day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

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

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

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

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

For all State Contracts in excess of \$25,000.00 whereby the University is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or a combination of the foregoing or all State Contracts in excess of \$100,000.00 whereby the

University is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, Contractor shall exert good faith efforts to achieve a participation goal of **fifteen** percent (**15%**) for Certified Minority-Owned Business Enterprises and **fifteen** percent (**15%**) for Certified Women-Owned Business Enterprises.

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

Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, remedies or enforcement proceedings as allowed by the Contract.

#### **11. DAMAGES FOR NON COMPLIANCE.**

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

- a. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
- b. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

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

## Attachment A: Project Site Schedule

Attachment 4-Project Site Implementation Schedule (for each installation)

*Contractor Name*

Updated: *DATE*

TASKS	mm-yy	mm-yy	mm-yy	mm-yy	mm-yy	mm-yy	mm-yy
<b>PROJECTED AWARD-NOTICE FROM SUNY PURCHASE</b>							
Projected: Award Notice							
Actual: Award Notice							
<b>NYSERDA PROPOSAL SUBMISSION</b>							
Projected: Award Notice							
Actual:							
<b>CUSTOMER AGREEMENTS</b>							
Projected: PPA signed (within 60 days of Notice of Award from NYSERDA)							
Actual: PPA Signed							
<b>PERMITTING</b>							
Projected: All Permits Obtained							
Actual: All Permits Obtained							
<b>INSTALLATION</b>							
Projected: System Installation							
Actual: System Installation							
<b>INTERCONNECTION</b>							
Projected: Interconnection Request with Utility							
Actual Interconnection Request with Utility							
Projected: Interconnection Approval Received							
Actual: Interconnection Approval Received							
<b>DATA TRANSMITTAL</b>							
Projected: Transmitting Data to the Website							
Actual: Transmitting Data to the Website							
<b>ACTUAL: INSTALLATION COMPLETE (actual kW)</b>							



## Attachment B: Electric Invoices

Attachment B is a summary of the last 12 months of electricity cost and usage. Actual invoices will be provided upon request.

Billing Month	Usage (MKWH)	MW	Total Cost
March-14	1,547.0	4.12	\$ 237,118.42
April-14	1,671.6	3.20	\$ 216,070.90
May-14	1,844.4	3.26	\$ 249,517.83
June-14	1,891.2	4.80	\$ 234,129.55
July-14	2,381.4	4.37	\$ 302,646.36
August-14	2,371.7	4.85	\$ 303,323.08
September-14	2,246.9	4.56	\$ 282,383.40
October-14	2,074.0	4.47	\$ 258,620.65
November-14	2,035.5	3.97	\$ 171,351.72
December-14	2,112.4	3.48	\$ 213,375.48
January-15	1,997.3	3.46	\$ 197,552.42
February-15	1,306.1	2.99	\$ 152,790.45

## Attachment C: Description of Premises and System

### Schedule 1: PV Project Site Installation Information

Customer Name	SUNY Purchase
Customer Street Address	
Customer City, State, Zip Code	
Customer Phone	
Customer e-mail	
Utility Zone	
Customer Purchase Agreement Type	
System kW Rating	
System Description	
Shading and Loss Information	
12 Month Historical Electrical Usage	
Percentage of System Offset	
Site Estimated Energy Production 1st Year (kWh)	
Site Estimated Energy Production 2nd Year (kWh)	
Site Estimated Energy Production 3rd Year (kWh)	
Site Estimated Energy Production 3 Year Total (kWh)	
Estimated Price of PV Panels	
Estimated Price of PV Inverters	
Estimated Price of Balance of System	
Estimated Price of Labor, Installation, Permits	
Estimated Total Installed Price	
Anticipated Incentive	
Scope: Installation, Operation, and Maintenance of System	
Do you have any pending applications or contracts for this project under any other NYSERDA Program? If so, please list those programs and the current status of the application/contract.	

## Attachment D – Estimated Annual Production

Estimated Annual Production commencing on the Commercial Operation Date with respect to System under the Agreement shall be as follows:

Year of System Term	Estimated Production (kWh)
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

The values set forth in this table are estimates (and not guarantees,) of approximately how many kWhs are expected to be generated annually by the System.



## Attachment E - - kWh Rate

The kWh Rate with Respect to the System under the Agreement shall be in accordance with the following schedule:

Note: Itemize any escalation rates used for each year applicable.

Year of System Term	kWh Rate [*] (\$/kWh)	Year of System Term	kWh Rate [*] (\$/kWh)
1		14	
2		15	
3		16	
4		17	
5		18	
6		19	
7		20	
8		21	
9		22	
10		23	
11		24	
12		25	
13		Total	

## Attachment F – Early Termination Fee

The Early Termination Fee with respect to the System under the Agreement shall be calculated in accordance with the following:

Early Termination Occurs in Year:	Column 1: Early Termination Fee where Purchaser does not take Title to the System (\$/Wdc including costs of removal)	Purchase Date Occurs on the 91st day following: (Each Anniversary below shall refer to the anniversary of the Commercial Operation Date)	Column 2: Early Termination Fee where Purchaser takes Title to the System (\$/Wdc, does not include costs of removal)
1*			
2		1st Anniversary	
3		2nd Anniversary	
4		3rd Anniversary	
5		4th Anniversary	
6		5th Anniversary	
7		6th Anniversary	
8		7th Anniversary	
9		8th Anniversary	
10		9th Anniversary	
11		10th Anniversary	
12		11th Anniversary	
13		12th Anniversary	
14		13th Anniversary	
15		14th Anniversary	
16		15th Anniversary	
17		16th Anniversary	
18		17th Anniversary	
19		18th Anniversary	
20		19th Anniversary	
21		20th Anniversary	
22		21st Anniversary	
23		22nd Anniversary	
24		23rd Anniversary	
25		24th Anniversary	

At Expiration (the end of the Initial Term), the amount in Column 1 shall be deemed to be zero (0).

\*Includes Early Termination prior to the Commercial Operation Date