



REQUEST FOR PROPOSAL

FOR

CONCESSION SERVICES AT NIAGARA FALLS INTERNATIONAL AIRPORT

NFTA RFP NO. 3920

The following items are to be included with the proposal and made part of any agreement entered into pursuant to this RFP.

PLEASE SUBMIT 4 COPIES OF PROPOSAL

Non-Collusive Proposal Certificate

Disclosure of Prior Non-Responsibility Determinations

Contractor Certification Form ST-220-TD

Cover Letter

Description of products/services

Firm, Management and Staff Qualifications

Resumes

References

Itemized Cost Proposal

PROPOSERS MUST REGISTER AND DOWNLOAD THIS RFP FROM THE NFTA WEB SITE, WWW.NFTA.COM, IN ORDER TO BE NOTIFIED OF SUBSEQUENT AMENDMENTS TO THIS RFP. ONLY REGISTERED SUPPLIERS WILL RECEIVE NOTIFICATION OF NEW RFP'S AS THEY BECOME AVAILABLE.

NIAGARA FRONTIER TRANSPORTATION AUTHORITY

REQUEST FOR PROPOSAL NO. 3920

Proposals will be received by the undersigned until 12:00 noon on JULY 1, 2009 for:

CONCESSION SERVICES AT NIAGARA FALLS INTERNATIONAL AIRPORT

in accordance with the attached proposal documents. The Authority reserves the right to reject any or all proposals, or to waive any informality in the proposal. Proposals shall be submitted in a sealed envelope showing Proponent's name and addressed to:

NIAGARA FRONTIER TRANSPORTATION AUTHORITY

Department of Procurement - Fifth Floor

Attention: M. Gerwitz

181 Ellicott Street

Buffalo, New York 14203

716-855-7206 phone, 716-855-6676 fax

email Mary_Gerwitz@NFTA.com

www.nfta.com

MARK ON LOWER LEFT HAND CORNER OF ENVELOPE:

RFP NO: 3920

DUE DATE: JULY 1, 2009

FOR: CONCESSION SERVICES AT NIAGARA FALLS INTERNATIONAL AIRPORT

NAME OF PROPONENT:

PROPOSALS MUST BE RECEIVED AT 181 ELLICOTT STREET, 5TH FLOOR, PROCUREMENT DEPARTMENT, BEFORE THE TIME DESIGNATED FOR OPENING IN ORDER TO BE CONSIDERED.

All correspondence, communications and/or contact with the NFTA in regard to any aspect of this proposal shall be with the Procurement Official designated above or her designated representative. Prospective proponents, or their representatives, shall not make contact with or communicate with any representatives of the NFTA, including employees and consultants, other than the designated Procurement Official, in regard to any aspect of this proposal.

Andrea Herald
Procurement Manager

SCOPE OF SERVICES

INTRODUCTION

The Niagara Frontier Transportation Authority (NFTA) is soliciting a proposal for a combination Food, Beverage, and Sundry store operation (including newspapers, souvenirs, etc.) to serve patrons of a newly constructed Niagara Falls International Airport Terminal in the City of Niagara Falls, NY, located at the Corner of Niagara Falls Blvd. and Porter Road. Potential bidders may also consider including vending operations and ATM services as part of their proposal.

SCOPE

The Niagara Frontier Transportation Authority (NFTA) is currently in the process of constructing a new passenger terminal at the Niagara Falls International Airport (NFIA) to replace the existing facility. The NFTA is soliciting proposals for the provision of Food, Beverage, and Sundry Store items to serve patrons of the new NFIA terminal. Potential bidders may also include vending machines and ATM services within their proposal.

Vending operations shall include machines with credit card capabilities. In proposing ATM services, the providing bank must have a major Western New York presence. Both ATM services and vending are optional.

Based upon current airline activity and discussions with other airline and tour operator groups, it is anticipated that in 2009, NFIA will realize 20,000 enplanements. The NFIA Aviation Group is actively marketing the airport to commercial and charter airlines as well as tour operators. Along with an attractive incentive package, it is hoped that additional NFIA service will occur once the new terminal building is complete.

ALL DATA AND INFORMATION IS PRESENTED FOR REFERENCE ONLY AND IS NOT INTENDED TO GUARANTEE ANY PARTICULAR LEVEL OF ACTIVITY.

Construction of the new terminal facility is in process and will be completed in September, 2009.

It is the intention of the NFTA to enter into an agreement with a proven food service operator. The NFTA will expect the successful proponent to participate in the on-going design/construction process.

NFTA will develop the shell space for the concession area(s). The concessionaire will be responsible for the installation of all related equipment and furniture and provide build-out of the shell space (if construction is required). The new terminal will include:

- 69,430 square feet of terminal space; 1 1/2 stories
- Facility can accommodate International and Domestic flights simultaneously

- Upper Hold Room is designed to accommodate 504 Peak Hour Passengers; Lower Hold Room will accommodate 90 Peak Hour Passengers with planned seating for 70, and space to accommodate additional seating.
- Ticketing – 8 check in positions

Approximately 2,000 sq. ft. of space may be allocated to concession operations including storage and commissary space. (See attached floor plan of the facility) Utilities for cooking equipment will be separately metered and paid for by the concession provider. General HVAC and lighting will be provided by NFTA. The concession provider will be responsible for cleaning and maintenance of their assigned area. Clean up of restaurant seating area will be performed by the concessionaire. Receiving and distribution areas will be designated by NFTA. Shared parking spaces will be provided by the NFTA.

The anticipated hours of operation of the NFIA in the post-security area are approximately two (2) hours prior to each departing flight. Pre-security areas of operation will be normal business hours.

The hours of operation of the concessions are subject to negotiation. The NFTA will review and approve menus. Product pricing should be reflective of competing area locations. Concession signage, in conjunction with leased premises, must be consistent with the design of the new facility and approved by the NFTA.

CONTRACT

It is expected that the term of the contract will start in September of 2009 and will be negotiable based upon initial capital investment. Proposers should outline their expected term as well as their capital investment schedule.

COST PROPOSAL

Quote revenue to NFTA as a percentage of sales or flat rate for each year of the contract. Revenues and or the rates can be escalating over time.

A proposed menu with prices shall be included with the cost proposal.

A non-mandatory pre-proposal conference will be held JUNE 17, 2009 AT 10 AM. Please contact Mary Gerwitz names and number of people attending before June 16.

DISADVANTAGED BUSINESSES

It is the policy of the Authority and the FAA that disadvantaged business enterprises (DBE) shall have the maximum opportunity to participate in any activity, service or facility at the Airport under agreement, lease, contract with, or franchise from the Authority. A successful proponent shall agree to make good faith efforts to ensure that business concerns owned and controlled by socially and economically disadvantaged

individuals as defined in the U.S. Department of Transportations' regulations, 49 CFR Part 23, as amended, participate in at least 10% of the activity, service or facility provided by a concessionaire during the entire term of its agreement by means of a joint venture, partnership, franchise or any other legal arrangement that results in bona fide ownership and control of the activity, service or facility.

If a selected proponent is unable to achieve this goal under joint venture, partnership, franchise or similar arrangement, the proponent shall seek to obtain the required DBE participation by other means, such as the purchase of goods, services, supplies and/or products from certified DBE vendors. In the event that a selected Proponent for this RFP qualifies as a certified DBE, the agreement goal shall be deemed to have been met.

Reporting: Each year, approximately thirty (30) days following the end of a calendar year, Concessionaire shall provide the Authority with the following information:

- the name and address of each certified DBE with which Concessionaire has done business with during the past year,
- a description of the nature of the services performed by and/or items purchased from each firm name, and the dollar value of each transaction.

PROPOSAL EVALUATION

An NFTA Selection Team will evaluate proposals. The team will select the proponent whose proposal is most advantageous to the NFTA, considering the evaluation criteria.

Selection Procedure

1. The selection team will evaluate and score all proposals received.
2. Proposals not meeting minimum requirements and those, which are not responsive, will not be given further consideration.
3. Proposals in the competitive range will be determined. These proponents may be asked to demonstrate their product to the selection team.
4. When demonstrations, discussions and negotiations are concluded, NFTA may request revised proposals and /or best and final offers from responsible proponents in the competitive range.
5. Proposals will be re-evaluated and scored. The selection team will recommend that the proponent with the highest overall score be awarded the contract. The recommendation must be approved by the NFTA Board of Commissioners prior to the execution of a contract.

NOTE: NFTA reserves the right to make the award based upon the initial proposals submitted, without presentations or discussions.

Evaluation Criteria (Listed in order of importance)

Experience and Business Plan
Capital Investment
Return to NFTA
DBE Participation

NIAGARA FRONTIER TRANSPORTATION AUTHORITY INSURANCE SPECIFICATIONS

The Contractor agrees to procure and maintain at its expense during the term of the Agreement insurance of the kinds and in the amounts hereafter required, with insurance companies authorized to do business in New York State, covering all operations under this Agreement whether performed by it or its sub-contractors. The insurance companies affording coverage must be deemed acceptable to the Authority throughout the term of this contract. If any insurance company is deemed unacceptable to the Authority the Contractor agrees to procure and maintain at its expense coverage with an acceptable insurer as soon as notified by the Authority. In relation to the interests of the NFTA, the insurance shall not be invalidated by any action or inaction of the Contractor, or any other individual or entity, subject to the terms and conditions of the policy. The policies shall provide for a 30-day notice to the Authority prior to termination, cancellation or change.

Prior to the execution of the Agreement, the Contractor shall supply the Authority by delivering to the Manager of Procurement, 181 Ellicott St., Buffalo, NY 14203, a certificate(s) of insurance providing evidence of insurance coverage for the Contractor for the following coverage:

- Commercial General Liability Insurance including coverage for property damage, bodily injury, personal injury and completed operations with a single limit of at least \$1,000,000 per occurrence with a \$2,000,000 aggregate. The certificate shall name the Authority as an additional insured.
- If any motor vehicle is used in the work, Auto Liability Insurance covering bodily injury and property damage with minimum combined single limit of \$1,000,000. The certificate shall name the Authority as an additional insured.
- Workers' Compensation and Employer's Liability in accordance with the applicable laws of the State of New York.
- Liquor liability in the amount of \$1,000,000 per occurrence and aggregate. The policy shall name the Authority as an additional insured. (This will only be required if the proposer will be serving liquor).
- Property damage insurance shall include "extended coverage" and coverage for personal property, equipment and furnishings and vandalism/malicious mischief and, other casualties, in an amount not less than the actual replacement cost of any equipment and furnishings at the Niagara Falls Airport Terminal Facility.
- Excess Liability/Umbrella Form, \$2,000,000. The certificate shall name the Authority as an additional insured.
- The Authority and the Contractor agree to waive all rights against each other for damages to the extent covered by the insurance, except for such rights they may have to the proceeds of such insurance held by the Authority as trustee. The Contractor shall require similar reciprocal waivers by all sub-contractors and sub-sub-contractors. This policy shall recognize such waivers of recovery by an appropriate Waiver of Subrogation Clause Endorsement, excluding any subrogation rights granted under New York Law to the contrary notwithstanding. All above required insurance coverages are to be provided on a primary and non-contributory basis.

PROPOSAL INSTRUCTIONS

1. INTRODUCTION

This Request for Proposal ("RFP") invites proposals for CONCESSION SERVICES AT NIAGARA FALLS INTERNATIONAL AIRPORT as set forth herein. These services may be modified during contract negotiations between the Proponent and the NFTA.

The Proponent is encouraged to use its previous knowledge and experience to develop a proposal to meet the NFTA's needs and a time schedule for completion within the constraints set forth in the project description and technical requirements.

This RFP does not commit the NFTA to negotiate a contract, nor does it obligate the NFTA to pay for any costs incurred in preparation and submission of proposals or costs incurred prior to entering into a formal agreement.

Proposals will be accepted until NOON, JULY 1, 2009 at the Office of the Manager, Procurement, Fifth Floor, Metropolitan Transportation Center, 181 Ellicott Street, Buffalo, New York 14203. Proposals should be submitted in an opaque, sealed envelope. The lower left-hand corner should be marked as follows: RFP 3920, CONCESSION SERVICES AT NIAGARA FALLS INTERNATIONAL AIRPORT. Proposals received after the date and time specified above shall be considered late proposals and, therefore, shall not be opened nor considered for award.

2. PROPONENT QUALIFICATIONS

To be considered qualified, the Proponent must demonstrate in its proposal that it has the background, experience, and the technical and management resources required to organize and conduct the services outlined in this RFP. The Proponent shall furnish information documenting its ability to provide and perform all work related to its implementation and ongoing effectiveness of the project, in a timetable acceptable by the NFTA. The NFTA reserves the right to investigate the qualifications of firms under consideration to confirm any part of the information furnished by the Proponent. Anything less than satisfactory performance on a prior NFTA contract may lead to the NFTA concluding that the Proponent is not qualified.

2.1 Joint Venture: Proposals submitted by a joint venture shall not be considered unless the contractual responsibilities of the parties to the joint venture are clearly and specifically identified.

2.2 Validity Period: The proposal shall be considered valid for the period of time it takes to negotiate a contract with the successful Proponent. This may involve a period of up to 90 days following submittal. If a proposal is not valid for this time period, notification of the valid time period must be made in the letter of transmittal.

2.3 Disclosure of Proposal Data: Access to the NFTA's records is governed by Article 6 of the Public Officers Law of the State of New York ("Freedom of Information Law"). Except as otherwise required by the Freedom of Information Law, the NFTA will exempt from disclosure records submitted in the proposal which are trade secrets or are maintained for the regulation of commercial enterprise which if disclosed would cause substantial injury to the competitive position of the subject enterprise. Any such records that an Offeror believes should be exempted from disclosure shall be specifically identified and marked as such. Blanket-type identification by designating whole pages or sections as records exempt from disclosure will not assure confidentiality. The specific records must be clearly identified and an explanation submitted as to why they should be exempt. Proposal Forms shall not be designated to be proprietary. The NFTA will disregard any proprietary markings on any Proposal Form.

Upon a request for records from a third party regarding any records submitted with this proposal for which an exemption was sought the NFTA will notify in writing the party involved. The party involved must respond within 10 (ten) business days with a written statement of the necessity for the continuation of such exemption.

2.4 Agreement: The Proponent awarded the contract will be required to execute an Agreement in a form acceptable to the Authority.

2.5 Confidentiality of Proposals: Access to the NFTA's records is governed by Article 6 of the Public Officers Law of the State of New York ("Freedom of Information Law"). Except as otherwise required by the Freedom of Information Law, the NFTA will exempt from disclosure, records submitted in the proposal which are trade secrets or are maintained for the regulation of commercial enterprise which if disclosed would cause substantial injury to the competitive position of the subject enterprise. Any such records that an Offerer believes should be exempted from disclosure shall be specifically identified and marked as such. Blanket-type identification by designating whole pages or sections as records exempt from disclosure will not assure confidentiality. The specific records must be clearly identified and an explanation submitted as to why they should be exempt. Proposal Forms shall not be designated to be proprietary. The NFTA will disregard any proprietary marking on any Proposal Form.

Upon a request for records from a third party regarding any records submitted with this proposal for which an exemption was sought, the NFTA will notify in writing the party involved. They party involved must respond within 10 (ten) business days with a written statement of the necessity for the continuation of such exemption.

3. RFP AMENDMENTS/QUESTIONS

This RFP represents a written statement on the part of the NFTA explaining the requirements, terms, and conditions for submissions of proposals. The RFP covers this material as comprehensively and completely as it can at this time and thus contains all representations of the NFTA with respect to this matter. Any information or understandings, verbal or written, which are not contained within this RFP, or in later

written addenda to this RFP, if issued, will be excluded from consideration in evaluating proposals.

Any questions, objections or requests for revisions which Proponents may have should be submitted in writing to Mary Gerwitz via e-mail and received no later than July 2,

2009. If questions submitted to the NFTA make issuance of addenda to this RFP necessary, such addenda will be distributed to all prospective Proponents. However, it is the responsibility of the Proponent to determine whether addenda have been issued and to acknowledge their receipt in its proposal.

4. PROPOSAL PROTEST PROCEDURES

4.1 Pre-Submittal Opening Protests: If a Proponent can demonstrate that the Contract Documents issued by the NFTA are unduly exclusionary and restrictive or that federal, state or local laws or regulations have been violated during the course of the procurement, then the Proponent may seek a review by the Executive Director or his appointed representative, at 181 Ellicott Street, Buffalo, New York 14203. Protests shall be clearly identified as Protests and submitted in writing as early as possible but no later than five (5) business days before the date specified for proposal submittal. Within four (4) business days after receipt of a pre-submittal protest, the Executive Director shall make one of the determinations listed in paragraph 4.4

4.2 Post-Submittal Protests: A protest to the acceptance or rejection of any or of all proposals for a contract, or to the award thereof, or to any such action proposed or intended by the NFTA, must be received in writing by the Executive Director no later than five (5) business days after the protesting party first learned, or reasonably ought to have learned, of the action or the proposed or intended action to which he/she protests.

4.3 Decision-Makers: In the event the protester alleges that the Executive Director or the representative appointed by the Executive Director to serve as Decision-Maker for the particular protest, engaged in improper conduct during the subject procurement, the General Counsel shall serve as the Decision-Maker. In the event it has been alleged that the General Counsel has engaged in improper conduct during the subject procurement, either the Executive Director or the Chief Financial Officer shall serve as the Decision-Maker.

4.4 Rulings on Protests: Within four (4) business days, the Executive Director shall render one of the following determinations:

- (a) Protest is overruled.
- (b) Protest is substantiated. Executive Director shall issue instructions to remedy issues relating to the protest.
- (c) Procurement activity is suspended until written notification by the Executive Director.

The determination shall be in writing and shall provide at a minimum a general response to each material issue raised in the protest. All documents submitted by the Protester and/or Authority Staff and reviewed by the Decision-Maker in the reaching of a determination shall form and be retained by the Authority as the formal record of the dispute resolution process. The issuance of the foregoing determination is the NFTA's final decision of the dispute.

All interested parties shall be notified of any protests that are filed. The NFTA shall refrain from awarding a contract within five (5) business days of the date of a decision rendered by the Executive Director regarding a protest, unless the NFTA determines that:

- (a) The items to be procured are urgently required.
- (b) Delivery or performance will be unduly delayed by failure to make a prompt award.
- (c) Failure to make a prompt award will otherwise cause undue harm to the NFTA, state government or the federal government.

4.5 Protester's Appeal to Federal or State Agencies: In the event that the NFTA fails to have written protest procedures or fails to abide by the protest procedures set forth above, and federal or state funds are participating in the procurement, then the protester may seek a review by the appropriate funding agency. Protesters shall file such a protest in accordance with the requirements set forth below, not later than five (5) business days after a final decision is rendered under the NFTA's protest procedure. In instances where the protester alleges that the NFTA failed to make a final determination on the protest, protesters shall file a protest with the appropriate agency not later than five (5) business days after the protester knew or should have known of the NFTA's failure to render a final determination on the protest.

5. PROPOSAL

The Proponent shall submit 5 copies of their proposal.

5.1 Format: The proposal must be in compliance with the format described herein. The proposal shall be prepared on 8-1/2" x 11" paper bound on the long side. All pages are to be sequentially numbered. Unnecessarily elaborate proposals are not desired. Proposals should be concise, particularly with respect to past experience on other projects and the resumes of key personnel. Related experience is essential. Be specific on past and current assignments. Define the firm's involvement and responsibilities in each project.

The Proponent's technical proposal shall be prepared using the following format to facilitate evaluation. If a Proponent fails to provide the information requested in one or more sections, the proposal may be considered non-responsive.

5.2 Content: The proposal shall contain the following items:

Cover Letter

Project Implementation

Project Organization

Key Personnel

Related Projects

Background Experience

Proposal forms completed as appropriate with supplemental data.

5.2.1 Cover Letter: The proposal shall be submitted with a cover letter summarizing key points in the proposal. Any introductory remarks may also be placed in the cover letter. The cover letter should not exceed three pages in length.

5.2.2 Project Implementation: The Proponent shall describe its plans to provide the requested services. This section should include a narrative description of the proposed methodology to accomplish the required tasks, as well as any innovations used on similar projects which may be applicable to the project.

5.2.3 Project Organization: This section of the proposal should be used to provide information on the Proponent's organization and staffing of the project. It should briefly describe the Proponent's personnel and pertinent qualifications.

5.2.4 Key Personnel: A list of key personnel for this project must be submitted along with a resume for each person.

5.2.5 Related Projects: A list of other contracts entered into by your firm that are similar to this project should be provided. Each should include the degree of involvement by your firm.

5.2.6 Background Experience: This section should contain a brief history of your firm, names of principals, concise description of the types of work accomplished, indication of current staff size and location and other relevant background information.

This section should also contain information demonstrating that your firm has a good working relationship with its clients, including a list of references (include contact names, addresses, phone numbers) copies of letters of commendation and a discussion of how problems arising during the course of project are addressed.

5.2.7 Project Cost Proposal: Please submit an Itemized Cost Proposal.

5.2.8 Proposal Forms: All forms requiring Proponent responses must be completed and submitted with the proposal.

6. EXECUTORY CLAUSE

The Contractor specifically agrees that this contract shall be deemed executory only to the extent of monies available and no liability shall be incurred by the NFTA beyond the monies available for this contract.

7. PERMITS AND COMPLIANCE WITH LAWS

The NFTA, in the construction, installation and operation of transportation facilities, is not required to obtain licenses or permits from any municipal or political subdivision of the State of New York. The Contractor, therefore, will not be required to obtain licenses or permits from any county, city, town or village agency or department. The Contractor shall, however, secure and pay for all permits, fees and licenses necessary to comply with applicable federal or state laws. Except as provided above, the Contractor shall comply with all federal, state, county and municipal laws, codes and regulations in connection with the prosecution of the work.

The Contractor shall protect, indemnify and hold harmless the NFTA and all of their officers, agents and employees against any and all claims and liabilities arising from or based on the violation of any such requirement or law whether by the Contractor, its employees, agents or subcontractors.

8. DISADVANTAGED BUSINESS ENTERPRISE POLICY STATEMENT

In accordance with the requirements of 49 CFR, Part 26, dated March 4, 1999 entitled, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs," the Niagara Frontier Transportation Authority (NFTA), is committed to the development and implementation of an effective Disadvantaged Business Enterprise (DBE) Program.

The NFTA has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the NFTA has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the NFTA to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also the policy of the NFTA:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs;

5. To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE program.

The Director of Equal Opportunity/Diversity Development has been delegated as the DBE Liaison Officer. In that capacity, the Director of Equal Opportunity/Diversity Development is responsible for implementing all aspects of the DBE Program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the NFTA in its financial assistance agreements with the Department of Transportation.

The NFTA has disseminated this policy statement to the Board of Commissioners and all the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for the NFTA on DOT-assisted contracts by inclusion in bid specifications, Requests for Qualifications and Requests for Proposals.

9. NEW YORK STATE SUBCONTRACTORS AND SUPPLIERS

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 Empire State Development, Procurement Assistance Unit, Phone: (518) 292-5220, or email to esd_smallbus@empire.state.ny.us.

A directory of certified minority and women-owned business enterprises is available from Empire State Development, Minority and Women's Business Development, 30 South Pearl St., Albany, NY 12245, Phone: (518) 292-5250, Fax: (518) 292-5803.

Bidders located in foreign countries are hereby notified that New York State may seek to obtain and assign or otherwise transfer offset credits created by this procurement contract to third parties located in New York State. The successful contractor shall agree to cooperate with the State in efforts to get foreign countries to recognize offset credits created by the procurement contract.

The Omnibus Procurement Act requires that by signing this bid proposal, contractors certify that whenever the total bid amount is greater than \$1 million:

1. The successful contractor shall document efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors on this project, and has retained the documentation of these efforts to be provided upon request to the State.

2. Documented efforts by a successful contractor shall consist of and be limited to showing that such contractor has:
 - a. Solicited bids, in a timely and adequate manner, from New York State business enterprises including certified minority and women-owned businesses, or
 - b. Contracted the Empire State Development to obtain listings of New York State business enterprises, or
 - c. Placed notices for subcontractors and suppliers in newspapers, journals and other trade publications distributed in New York State, or
 - d. Participated in bidder outreach conferences.
 - e. If the Contractor determines that New York State business enterprises are not available to participate on the contract as subcontractors or suppliers, the Contractor shall provide a statement indicating the method by which such determination was made.
 - f. If the Contractor does not intend to use subcontractors on the contract, the Contractor shall provide a statement verifying such intent.
3. The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261) as amended;
4. 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 Community Services 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.

10. SUSPENSION AND DEBARMENT

This Article applies to contracts for amounts in excess of \$25,000.00.

The Contractor certifies by execution of this Agreement that neither the Contractor nor its principals or affiliates are excluded or disqualified as defined at 49 CFR Part 29.

The Contractor also agrees to include these requirements in each subcontract exceeding \$25,000.00.

11. STATE FINANCE LAW 139-K

Proponent certifies that all information provided to the NFTA with respect to section 139-k of the State Finance Law is complete, true and accurate. The NFTA reserves the right to terminate this Agreement in the event it is found that the information provided by Proponent in accordance with section 139-k of the State Finance Law was intentionally false or intentionally incomplete. Upon such finding, the NFTA may exercise its termination right by providing written notification to Contractor in accordance with the Termination for Default article of this Agreement.

12. LOBBYING

Permissible contacts during the procurement process are governed by section 139-j of the State Finance Law. Submission of a proposal in response to this Request for Proposals constitutes the proponent's written affirmation that the proponent understands and agrees to comply with section 139-j of the State Finance Law.

NON-COLLUSIVE PROPOSAL CERTIFICATION

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

- a) The prices in this proposal have been arrived at independently, without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Proponent or with any competitor;
- b) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the Proponent and will not knowingly be disclosed by the Proponent prior to opening, directly or indirectly, to any other Proponent or to any competitor, and
- c) No attempt has been made or will be made by the Proponent to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

SUBMITTAL OF PROPOSAL

The undersigned submits the following proposal, which is in complete conformity with the intent of the proposal documents. The Proponent agrees that should it be awarded a contract on the proposal through the issuance of a contract or purchase order from the Niagara Frontier Transportation Authority, it will provide the materials, supplies, equipment or services in strict compliance with the contract documents for the compensation stipulated herein. The Proponent agrees that its proposal shall remain effective for a period of 90 days from the formal proposal receipt date.

Proponent

Name

Signature

Title

Date

Disclosure of Prior Non-Responsibility Determinations

Name of Contractor: _____

Address: _____

Name and Title of Person Submitting this Form: _____

Has any governmental entity* made a finding of non-responsibility regarding the Contractor in the last five years? (Please circle):

No

Yes

If yes, was the basis for the finding of the Contractor's non-responsibility due to the intentional provision of false or incomplete information (Please circle):

No

Yes

If yes, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

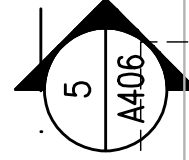
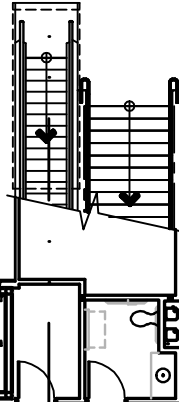
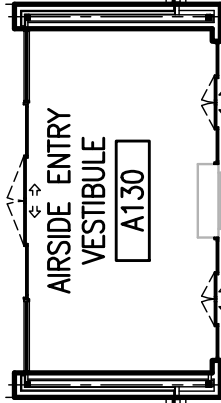
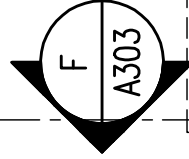
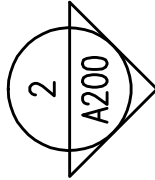
Year of Finding of Non-responsibility: _____

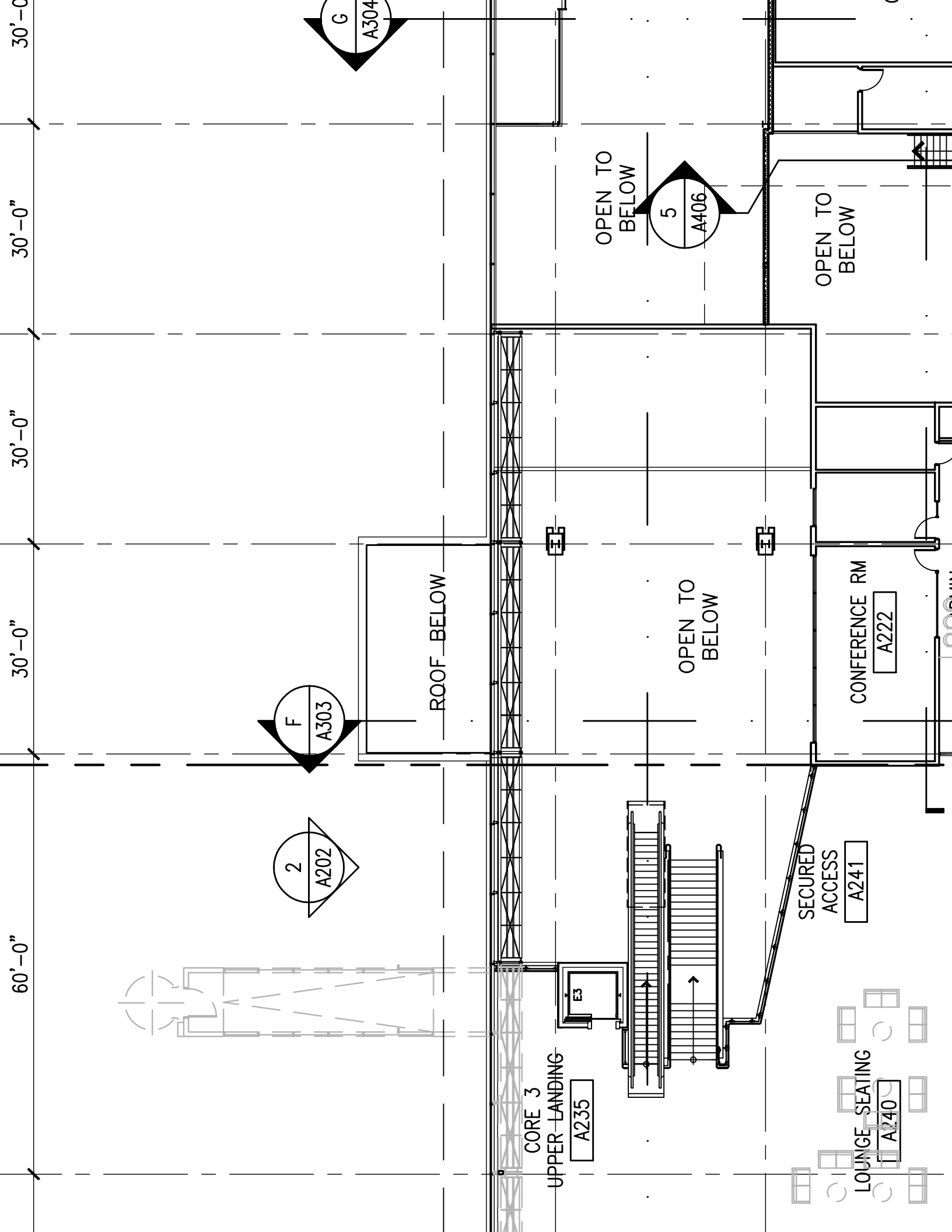
Basis of Finding of Non-Responsibility: _____

* As defined in section 139-k of the New York State Finance Law.

PERFORMANCE SECURITY

Performance Security is not required for this proposal.





**Contractor Certification**(Pursuant to Section 5-a of the Tax Law, as amended,
effective April 26, 2006)**ST-220-TD**

(5/07)

For information, consult Publication 223, Questions and Answers Concerning Tax Law Section 5-a (see Need help? below).

Contractor name

Contractor's principal place of business

City

State

ZIP code

Contractor's mailing address (if different than above)

Contractor's federal employer identification number (EIN)

Contractor's sales tax ID number (if different from contractor's EIN)

Contractor's telephone number
()

Covered agency or state agency

Contract number or description

Estimated contract value over
the full term of contract
(but not including renewals) \$

Covered agency address

Covered agency telephone number

General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and Individual, Corporation, Partnership, or LLC Acknowledgement on page 4. If you do not complete these areas, the form will be returned to you for completion.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*, available at www.nystax.gov. Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

**NYS TAX DEPARTMENT
DATA ENTRY SECTION
W A HARRIMAN CAMPUS
ALBANY NY 12227****Privacy notification**

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

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

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

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

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227.

Need help?**Internet access:** www.nystax.gov
(for information, forms, and publications)**Fax-on-demand forms:**

1 800 748-3676

**Telephone assistance** is available from 8:00 A.M. to 5:00 P.M.
(eastern time), Monday through Friday.

To order forms and publications:

1 800 462-8100

Sales Tax Information Center:

1 800 698-2909

From areas outside the U.S. and outside Canada:

(518) 485-6800

Hearing and speech impaired (telecommunications
device for the deaf (TDD) callers only):

1 800 634-2110

**Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

I, _____, hereby affirm, under penalty of perjury, that I am _____
(name) (title)
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

Complete Sections 1, 2, and 3 below. Make only one entry in each section.

Section 1 — Contractor registration status

- ☐ The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.
- ☐ The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 2 — Affiliate registration status

- ☐ The contractor does not have any affiliates.
- ☐ To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- ☐ To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 3 — Subcontractor registration status

- ☐ The contractor does not have any subcontractors.
- ☐ To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- ☐ To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

Schedule A — Listing of each entity (contractor, affiliate, or subcontractor) exceeding \$300,000 cumulative sales threshold

List the contractor, or affiliate, or subcontractor in Schedule A only if such entity exceeded the \$300,000 cumulative sales threshold during the specified sales tax quarters. See directions below. For more information, see Publication 223.

[illegible]

Column A – Enter **C** in column A if the contractor; **A** if an affiliate of the contractor; or **S** if a subcontractor.

Column B – Name - If the entity is a corporation or limited liability company, enter the exact legal name as registered with the NY Department of State, if applicable. If the entity is a partnership or sole proprietor, enter the name of the partnership and each partner's given name, or the given name(s) of the owner(s), as applicable. If the entity has a different DBA (doing business as) name, enter that name as well.

Column C – Address - Enter the street address of the entity's principal place of business. Do not enter a PO box.

Column D – ID number - Enter the federal employer identification number (EIN) assigned to the entity. If the entity is an individual, enter the social security number of that person.

Column E – Sales tax ID number - Enter only if different from federal EIN in column D.

Column F – If applicable, enter an X if the entity has submitted Form DTF-17 to the Tax Department but has not received its certificate of authority as of the date of this certification.

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
 : SS.:
COUNTY OF }

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

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

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

Notary Public

Registration No. _____