ATTACHMENT 12 – Affirmation pursuant to SFL State Finance Law §139-j-k

Background:

State Finance Law §139-j(6)(b) provides that:

> *Every Governmental Entity shall seek written affirmations from all Offerors as to the Offeror's understanding of and agreement to comply with the Governmental Entity's procedures relating to permissible contacts during a Governmental Procurement pursuant to subdivision three of this section.*

Instructions:

A Governmental Entity must obtain the required affirmation of understanding and agreement to comply with procedures on procurement lobbying restrictions regarding permissible Contacts in the restricted period for a procurement contract in accordance with State Finance Law §§139-j and 139-k. It is recommended that this affirmation be obtained as early as possible in the procurement process, such as when the Offeror submits its proposal or bid. The following language can be used to obtain the affirmation.

Offeror affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible Contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).

By: _____ Date:_____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

_____

_____

ATTACHMENT 12 – Affirmation pursuant to SFL State Finance Law §139-j-k

Note: Government Entities may wish to consider integrating this language in their existing forms.

Background:

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offeror must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms "Offeror" and "Governmental Entity" are defined in State Finance Law § 139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such Contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offeror fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offeror that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offeror is necessary to protect public property or public health safety, and that the Offeror is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

Instructions:

A Governmental Entity must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Governmental Entity conducting the Governmental Procurement.

ATTACHMENT 12 – Affirmation pursuant to SFL State Finance Law §139-j-k

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

_____

Address:_____

_____

Name and Title of Person Submitting this Form:

_____

Contract Procurement Number: _____ Date:_____

1. Has any Government Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):

NO YES

If yes, please answer the next question.

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j? (Please circle):

NO YES

3. Was the basis for the finding on non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):

NO YES

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below and attach additional pages as necessary.

Governmental Entity:_____

Date of Finding of Non-responsibility:_____

Basis of Finding of Non-responsibility:_____

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):

NO YES

6. If yes, please provide details below and attach additional pages as necessary.

Governmental Entity:_____

Date of Termination or Withholding of Contract:_____

Basis of Termination or Withholding:_____

Offeror certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By:_____ Date:_____

ATTACHMENT 12 – Affirmation pursuant to SFL State Finance Law §139-j-k

Background:

New York State Finance Law §139-k(5) requires that every Procurement Contract award subject to the provisions of State Finance Law §§139-k or 139-j shall contain a certification by the Offeror that all information provided to the procuring Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

Instructions:

A Governmental Entity must obtain the required certification that the information is complete, true and accurate regarding any prior findings of non-responsibility, such as non-responsibility pursuant to State Finance Law §139-j. The Offeror must agree to the certification and provide it to the procuring Governmental Entity. While the nature of the Procurement Contract will determine how to obtain the certification and when the certification should be obtained, the following documents have been identified for consideration:

- solicitation documents (such as an Invitation for Bids or Requests for Proposal);
- procurement contract; and
- other/stand alone certification.

It is recommended that the certification be obtained as early as possible in the process, such as when an Offeror submits its proposal, bid or other form of offer.

Offeror Certification

I certify that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date:_____

Name:
_____

Title:
_____

Contractor Name:
_____

Contractor Address:
_____

_____