

**MONTGOMERY-OTSEGO-SCHOHARIE
SOLID WASTE MANAGEMENT AUTHORITY**



REQUEST FOR QUALIFICATIONS

FOR

**SOLID WASTE
PLANNING SERVICES**

Item #P2006-~~---~~

1

November 20, 2006

**P.O. Box 160, NYS Route 7
Howes Cave, New York 12092
Telephone: (518) 296-8884
Fax:(518) 296-8937**

REQUEST FOR QUALIFICATIONS (“RFQ”) FOR SOLID WASTE PLANNING SERVICES

SECTION 1

INTRODUCTION

The Montgomery-Otsego-Schoharie Solid Waste Management Authority (the “Authority” or “MOSA”) invites qualified consultants to submit proposals for the provision of solid waste management consulting services. It is the intent of the Authority to engage the services of a consultant to provide professional services related to long term planning for its solid waste management program.

1.1 The Authority

The Formation --

The Montgomery-Otsego-Schoharie Solid Waste Management Authority (the “Authority” or “MOSA”) is a New York State public benefit corporation created by Public Authorities Law, Title 13-AA, Section 2041-a to 2041-x (the “Act”), as adopted in 1987 and as amended.

MOSA was created for the public purpose of assisting in the planning, development, construction, operation and maintenance of solid waste facilities. MOSA is empowered to receive, transport, process, dispose of, sell, store, convey, recycle and deal with, in any lawful way, solid waste. Furthermore, MOSA is empowered to contract with municipalities, public corporations or persons for solid waste services.

It’s Purpose –

MOSA services a three-County area more commonly known as “The Service Area”. The Service Area includes the Counties of Montgomery, Otsego and Schoharie (the “Counties”) and encompasses 2,045 square miles of land. Approximately 143,000 people reside in the Service Area. The largest municipalities are the City of Amsterdam with a population of approximately 18,400 and the City of Oneonta with population of approximately 13,300.

The Service Agreement --

The Counties entered into a certain Service Agreement dated as of April 1, 1989 (the “Service Agreement”), assigning MOSA the responsibility for managing municipal solid waste generated within the Service Area.

Under the Service Agreement, each of the Counties guarantees an annually determined tonnage of solid waste for management by the Authority. This collateralizes the Authority’s debt. This guaranteed annual tonnage, referred to as the “GAT”, is set forth in the Authority’s annual GAT study, a copy of which can be viewed on the Authority’s website at www.mosainfo.org under “Downloadable Reports” that can be seen in the left margin under the tab “About MOSA”. If any County fails to deliver its required amount of tonnage they are subject to a shortfall subsidy as set forth in said Service Agreement.

The current term of the Service Agreement expires May 25, 2014. A copy of the Service Agreement can be found on the Authority’s website at www.mosainfo.org.

Debt --

The Authority has outstanding revenue bonds in the principal amount of \$14,525,000 as of November 1, 2006. Proceeds of the Authority’s obligations were used to acquire and construct its facilities, for closure costs of landfills and for the purchase of equipment. Further information regarding the Authority’s financing can be obtained from the “Offering Statement” prepared in conjunction with the 2003 refinancing of its debt, available upon request.

Operations --

The Authority has operated transfer stations since 1991. The Authority currently owns and operates five transfer stations located in Oneonta, Cooperstown, Randall, Amsterdam, and Howes Cave. A description of each is provided in **Exhibit A**.

The Authority owns and monitors/maintains two closed landfills in Montgomery County, the Eastern Landfill and the Central Landfill, and a closed C&D landfill adjacent to the transfer station near Cooperstown. The Authority’s administrative offices are located at NYS Route 7 in Howes Cave, New York.

Municipal recycling programs are operated by Otsego and Schoharie Counties, and by certain municipalities within Montgomery County. Certain areas at some of MOSA’s transfer station facilities are made available to the Counties for use in connection with County or municipal recycling programs.

Data concerning tonnages delivered to the transfer stations and operating hours of the transfer stations are also included in the Annual Report available on the website

Budget --

The Authority's operating budget can also be found on the Authority's website as a "Downloadable Report".

History –

A major part of the history of the Authority is laid out on the website.

The Carbone Decision derailed the original intent to construct a landfill to handle the waste flow generated from within the Service Area after closure of the landfills acquired by MOSA. The debt service obligation relating to acquisition and closure costs was considered a primary cause of the base tipping fee being non-competitive.

MOSA and the Counties have issued previous RFP's and studied available options. Options considered have included landfill construction and privatization. Flow control has been discussed, depending on the outcome of the current U.S. Supreme Court cases. Establishing solid waste districts is an option for which the framework has been developed in Otsego County. Most recently, the Consensus Building Institute was engaged to help facilitate discussions between all stakeholders. A report was issued, but all principal parties did not endorse the recommendations.

The Immediate Concern –

The Counties' efforts to effect economic flow control through the subsidization of the tipping fees have become increasingly burdensome due to substantial increases in transportation and disposal costs. The tipping fee for 2007 is taking a sixteen percent (16%) increase, fourteen percent (14%) of which is due to the increased cost of transportation and disposal.

The Need --

Short-term options to address the increased burden on the Counties require immediate attention, with a short-term strategy developed for implementation.

Based on its current transportation and disposal agreement, the Authority has a three-year window in which to develop an intermediate and long-term strategy. The Authority is also looking to the period beyond the expiration of the Service Agreement to determine what course may be in the best interests of the residents of the Service Area.

It is the desire of the Governing Board to retain professional assistance in identifying a more complete list of options and establishing a comprehensive strategic/business plan prior to the expiration of the current Transportation and Disposal Agreement and as the Service Agreement approaches the end of its term.

It is anticipated that services to be provided would include a thorough review of the Authority's operations, a review of the economic and market forces currently in place and anticipated, identification of possible options, along with the development of an understanding of the political dynamics influencing the relationships between the Counties and their representatives as they interact in the decision making process as well as operational dynamics.

1.2. Agency Contact

The Consultant's sole point of contact for this proposal is Gilbert Chichester, Executive Director:

**Gilbert Chichester, Executive Director
Montgomery-Otsego-Schoharie Solid Waste Management Authority
P.O. Box 160, NYS Route 7
Howes Cave, New York 12092**

**Telephone: (518) 296-8652
Fax: (518) 296-8937**

Email: gil@mosainfo.org (for inquiries only; the response to RFQ may not be submitted via email)

Questions regarding this RFQ must be in writing and must be received by the Executive Director at the address set forth above no later than December 1, 2006. Questions sent via facsimile or e-mail is acceptable if sent no later than the deadline stated above. Responses to questions will be provided via first class mail, or by email if an email contact is supplied by the Respondent .

No contact with any other Authority personnel other than the authorized contact person is allowed until such time as an award has, or awards have, been made. Violation of this provision may be grounds for immediate disqualification. It is requested that any and all contact with the authorized contact person be made by fax or e-mail.

1.3. RFQ Contents

This RFQ contains the following sections:

1. Introduction
2. Project Discription
3. Instructions to Respondents
4. Evaluation Process
5. Contract Terms and Conditions

1.4. RFQ Schedule

This RFQ is to be conducted according to the following tentative schedule. This tentative schedule may be altered at any time at the discretion of the Authority.

November 20, 2006: Release RFQ

December 1, 2006 (3:00 p.m., Eastern Time): Due date for questions regarding this RFQ

December 15, 2006 (by 3:00 p.m. Eastern Time): RFQ due.

January 8 to January 19, 2007: Interviews, if necessary

January 30, 2007: Selection of Consultant

February 6, 2007: Contract Execution

February 7, 2007: Commence Services

SECTION 2

PROJECT DESCRIPTION

The Authority is seeking statements of qualifications from qualified firms authorized to do business in the State of New York to assess the economic viability of the Authority's current waste management system and to assess and recommend options which should be considered by the Authority to address waste management needs in its planning area, including the potential development of a landfill, the acquisition of landfill space at an existing landfill facility, as well as other alternatives. The scope of the analysis should include any and all ancillary costs as well as operational or market related factors that would impact the Authority's decision. The Respondent should be prepared to provide general planning, visioning, community outreach, facilitation, zoning analyses, agency coordination, project/program management, environmental analyses and permitting, traffic and transportation planning and engineering and conceptual design services on a task order basis.

It is expected that the selected firm would meet with selected representatives from each County as well as Authority staff and Board members in formulating a detailed scope of work for the services. It is expected that the Consultant would work with the Authority to outline, and analyze and facilitate discussions on available options for solid waste management in the Service Area, taking barriers and opportunities into account. It is expected that the selected firm's work would be presented in written report form. The consultant will also need to be available for meetings with representatives of the Authority and the Counties, and for presentation of draft and final reports to the Authority Board and representatives of the Counties.

SECTION 3

INSTRUCTION TO RESPONDENTS

3.1. Consultant's Proposal

3.1.1. Submittal of Proposals

Twelve (12) copies of the statement of qualifications should be submitted in hard copy form to:

Gilbert L. Chichester
Montgomery-Otsego-Schoharie Solid Waste Management Authority
P.O. Box 160, NYS Route 7
Howes Cave, NY 12092

All proposals must be received no later than 3:00 p.m., Eastern Time, on December 15, 2006. Proposals received after this time may be rejected. The Authority, in its sole discretion, reserves the right to accept or reject any or all proposals. Respondents shall submit its proposal in a sealed package addressed as noted above, bearing Respondent's name, address and clearly marked as follows: "MOSA RFQ for Solid Waste Planning."

3.1.2. Proposal Format

Sequentially number all pages throughout or by section. All text and exhibits should be succinct and relevant to the RFQ requirements.

3.1.3. Letter of Transmittal

Address the letter of transmittal to Gilbert Chichester, Executive Director. Include, at a minimum, the following:

- a. Identification of the offering firm(s), including name, address and telephone number of each firm.
- b. Acknowledgment of receipt of RFQ addenda, if any.
- c. Name, title, address, telephone and fax numbers and e-mail address of contact person during period of proposal evaluation.
- d. A statement to the effect that the proposal shall remain valid for a period of not less than 90 days from the date of submittal.
- e. Signature of a person authorized to bind the offering firm to the terms of the proposal.

3.1.4. Firm Qualifications

Provide background information on your firm, including but not limited to: line of business overview, names, addresses and position of all persons having a financial interest in the company, state of formation (as applicable), and any other information that will permit the Authority to determine capability of respondent to meet all contractual requirements.

3.1.5. Qualifications of Consultant Team

Please provide biographies of the project manager and key personnel. Describe only the people who would actually work on the Authority's account. Specify the role each would play, as well as what backup coverage would be available in time of conflicting engagements.

State in writing and/or provide an organization chart showing the project manager and key personnel for the Respondent's project team. Identify the areas of responsibility for all proposed participants. Provide any subcontractors' company name, address, contact person, and telephone number.

3.1.6 Experience and References

Describe three to five similar projects undertaken by the Consultant within the last five (5) years. For each project, provide the client's name, address and telephone number for a contact person currently available who is familiar with the firm's performance on each project listed.

Comprehensive knowledge of a broad spectrum of solid waste management projects and expertise in assisting other governmental units similar projects is strongly preferred. Demonstrable knowledge of New York Solid Waste regulations is required.

3.1.7 Authority Staff Needs

The submittals must contain a listing of responsibilities to be assumed by the Authority in order to accomplish the optimum relationship between the Authority and Consultant.

3.1.8. Conflict of Interest

The Consultant must identify any potential conflict of interest it may have with the Authority or any member County. In particular, please disclose:

- (a) Any material financial relationships that your firm or any firm employee has that may create a conflict of interest or the appearance of a conflict of interest in contracting with the Authority.

- (b) Any family relationship that any employee of your firm has with any Authority official or employee that may create a conflict of interest or the appearance of a conflict of interest with the Authority.
- (c) Any other matter that your firm believes may create a conflict of interest or the appearance of a conflict of interest in contracting with the Authority.

3.1.9. Background Information

Identify all adverse determinations against your firm, or its employees or persons acting on its behalf, with respect to actions, proceedings, claims or complaints concerning violations of federal, state or municipal equal opportunity laws or regulations.

Identify any customers/clients that have terminated services for cause in the past two years.

If your firm, or any of its employees present or past, or anyone acting on its behalf, has ever been convicted of any crime or offense arising directly or indirectly from the conduct of your firm's business, or if any of your firm's officers, director or persons exercising substantial policy discretion ever been convicted of any crime or offense involving business or financial misconduct or fraud, please describe any such convictions and surrounding circumstances in detail.

Please describe any action, suit, proceeding or investigation pending or threatened against your firm including, without limitation, any proceeding known to be contemplated by government authorities or private parties, relating to your services under any similar agreement or alleging business or financial misconduct or fraud, or which if determined adversely would have a material effect on the firm's ability to provide the services described herein.

If your firm, or any of its employees, or anyone acting on its behalf, has been indicted or otherwise charged in connection with any criminal matter arising directly or indirectly from the conduct of your firm's business, or if any of your firm's officers, directors or persons exercising substantial policy discretion has been indicted or otherwise charged in connection with any criminal matter involving business or financial misconduct or fraud, describe any such indictments or charges still pending and surrounding circumstances in detail.

3.1.10 Statement of Insurance.

Attach evidence of general liability, automobile liability, worker's compensation, and professional liability insurance as set forth at **Exhibit "B"**, using **Form "F"**. The successful Respondent will be required to provide evidence satisfactory to the Authority of insurance policies listing the Authority as additional insured, as applicable. By signing and submitting a proposal, the Respondent certifies that if awarded the contract, it will have the appropriate Workers Compensation and Employer's Liability insurance and will provide the Authority with

a Certificate of Liability Insurance describing the limits of coverage and naming the Authority as an additional insured party at the time the work commences. Additionally, it will maintain this coverage during the entire term of the contract and that all insurance coverage will be provided by the insurance companies authorized to sell insurance in the State of New York.

3.1.11 Forms Required

All responses shall include the attached Proposal Forms, along with all supporting items. All blank spaces in the Proposal Forms must be filled in. Any items which are not applicable to the Respondents situation should be marked N/A (not applicable).

3.1.12 Exceptions and Deviations. Any exceptions to the requirements in this RFQ, **including the insurance requirements**, must be included as a separate element of the proposal under the heading “Exceptions and Deviations.” The Authority retains the right, in its sole discretion, to reject these requests for exception.

3.1.13 Freedom of Information Law. All statements of qualifications submitted to the Authority in response to this RFQ may be disclosed in accordance with the standards specified in the Freedom of Information Law, Article 6 of the Public Officers Law of the State of New York (“FOIL”). A firm submitting a statement of qualifications may provide in writing, at the time of its submission, a detailed description of the specific information contained in its submission which it has determined is a trade secret and which, if disclosed, would cause substantial injury to such firm’s competitive position, including completion of **Form G**. This characterization shall not be determinative, but will be considered by the Authority when evaluating the applicability of any exemptions in response to a FOIL request. However, MOSA assumes no responsibility for any disclosure or use of data submitted.

3.2. General Information

3.2.1. Property of the Authority

All materials submitted in response to this RFQ will become the property of the Authority.

3.2.2. Examination of Proposal Documents

By submitting a proposal, the Consultant represents it has thoroughly examined and become familiar with the work required under this RFQ and that he or she is capable of performing quality work to achieve the objectives of the Authority.

3.2.3. Addenda/Clarifications

Any Authority changes to this RFQ will be made by written addendum. No oral modification will be binding.

The Authority may investigate the qualifications of any Consultant under consideration, require confirmation of information furnished by Consultant, and require additional evidence of qualifications to perform the work described in this RFQ or information clarifying their submissions.

3.2.4. Effective Period of Statement of Qualifications

A statement of qualifications may be withdrawn at any time prior to the date specified as the closing date for acceptance; however, no respondent may withdraw or cancel a statement of qualifications for a period of ninety (90) days following the closing date for acceptance, nor shall the successful respondent withdraw or cancel or modify the statement of qualifications, after having been notified that the statement of qualifications has been accepted by the Authority, except at the request of the Authority, or with the Authority's written consent.

3.2.5. Pre-Contractual Expenses

Pre-contractual expenses are defined as expenses incurred by the Consultant in:

- 1) preparing its proposal in response to this RFQ;
- 2) submitting that proposal to the Authority;
- 3) negotiating with the Authority any matter related to this proposal; or
- 4) any other expenses incurred by the Consultant prior to the date of execution of the proposed agreement.

The Authority shall not, in any event, be liable for any pre-contractual expenses incurred by the Consultants in the preparation of their proposals.

3.2.6. Joint Offers

Where two or more Consultants desire to submit a single proposal in response to this RFQ, they should do so on a prime-subcontractor basis rather than as a joint venture. The Authority intends to contract with a single firm and not with multiple firms doing business as a joint venture.

3.2.7. Reservation of Authority Rights

The Authority reserves the right, for any or no reason and in its sole and absolute discretion to:

- (1) Amend, in whole or part, withdraw or cancel this RFQ.
- (2) Waive minor irregularities in the proposals.
- (3) Negotiate contract terms contemporaneously and/or subsequently with any number of Respondents as the Authority deems to be in its best interest.
- (4) Accept or reject any or all statements of qualifications prior to execution of the services contract for any or no reason and with no penalty to the Authority.

This RFQ does not commit the Authority to enter into a contract, nor does it obligate the Authority to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract. Each statement of qualifications prepared in response to this RFQ will be proposed solely at the cost and expense of the respondent with the express understanding that there will be no claim whatsoever for reimbursement from the Authority.

News releases or other public announcements relating to this RFQ shall not be made by any party receiving this RFQ without the prior written approval of the Authority.

SECTION 4

EVALUATION PROCESS

4.1 Evaluation Criteria.

Consultants may be selected from among responding firms based on a thorough analysis of each firm's ability to provide the Authority with the highest quality services at the most cost-effective fees. The following factors may be taken into account:

4.1.1 Response to RFQ: Conciseness, completeness and clarity of presentation of statement of qualifications and any oral presentations.

4.1.2 Experience of Firm(s):

- (a) The comprehensiveness, appropriateness and quality of experience of the member firms relevant to this RFQ.
- (b) References.
- (c) The presence of the appropriate disciplines.
- (d) Knowledge of waste management in New York and related regulations, policy, and operational practices.

4.1.3. Experience of Personnel:

- (a) Level of effort and participation of key personnel.
- (b) Experience, education and qualifications of key personnel with similar roles and projects.
- (c) Knowledge of waste management in New York and related regulations, policy, and operational practices.
- (d) Demonstrated ability to successfully lead the project, including availability and participation of key personnel during the time period of the project.

4.1.4. Other Factors

Any other factors deemed relevant by the Authority.

4.2. Selection

The Authority may select one or more respondents for interviews based on the review of the responses, and may select one or more respondents for negotiation of contract terms. The Authority Board will make the final selection and authorization of contract terms based on its determination as to the best interests of the Authority. At the conclusion of the discussion, if a contract satisfactory and advantageous to the Authority can be negotiated at a price considered fair and reasonable, the award shall be made to the Respondent. Otherwise, negotiations with that Respondent shall be formally terminated and negotiations conducted with the next ranked Respondent, and so on until such contract can be negotiated at a fair and reasonable price.

Notwithstanding any other provisions of this RFQ, the Authority reserves the right to award this contract to the Respondent(s) that best meet the requirements of the RFQ, and not necessarily to the lowest cost proposal.

The Authority will select a firm by means of a Notice of Award issued pursuant to a resolution adopted by the Board. Neither the selection of a firm nor the issuance of a Notice of Award shall constitute a binding commitment on behalf of the Authority to enter into a services contract with the firm, as any binding arrangement must be set forth in definitive agreement signed by both parties and shall be subject to all requisite approvals.

SECTION 5

CONTRACT TERMS AND CONDITIONS

5.1 State Finance Law Sections 139-j and 139-k

Pursuant to New York State Finance Law §§139-j and 139-k, this RFQ includes and imposes certain restrictions on communications between the Authority and a Respondent during the procurement process. A Respondent is restricted from making contacts from the earliest date of issuance of this RFQ through final award and approval of the Contract by the Authority (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is identified in Section 1.2 of this solicitation. Authority employees and Board Members are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Respondent pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4-year period, the Respondent is debarred from obtaining governmental Procurement Contracts as defined in State Finance Law Section 139-j. Further information about these requirements can be found on the OGS website at www.ogs.state.ny.us.

The Respondent is required to include **Forms “A-1”, “A-2” and “A-3”** with its proposal.

5.2. Contract Terms and Conditions

The Authority will enter into a contract with the selected Respondent in substantially the form attached hereto as **Exhibit B**. Submission of a proposal constitutes acceptance by the Respondent of these terms and conditions.

5.3. Compensation

Compensation for tasks identified in the first phase of the consultant's work will be based on individual task orders, negotiated prior to the commencement of each task, and each task order shall be predicated on a "not to exceed" basis if not otherwise negotiated prior to the commencement of the task.

Payments for services are to be requested as monthly billings submitted by the Respondent by the end of the month and payable by the Authority within 30 days thereafter.

5.4 Negotiations

The Authority intends to enter into contract negotiations with the firm or firms selected, who shall be required to enter into a written agreement or agreements (hereinafter, the "Agreement") with the Authority in a form approved by Authority Board.

The Authority reserves the right to negotiate the terms and conditions of the Agreement(s) with the selected respondent(s), if any. These negotiations could include all aspects of services and fees. It is anticipated that the Agreement will include a not to exceed amount based on the scope of services in one or more phases, with the provision and presentation of written reports at the completion of each phase. Neither the selection of a vendor nor the negotiation of the Agreement with such vendor(s) shall constitute a binding commitment on behalf of the Authority to enter into a Agreement with such vendor(s), as any binding arrangement must be set forth in the Agreement signed by both parties and is subject to all requisite approvals.

5.5. Agreement Term

It is the intent to award Agreement(s) for a one-year period with the option for two one-year renewals, subject to MOSA's right of early termination as provided in the Agreement. Any decision to renew the Agreement(s) will be at the sole discretion of MOSA. Scope of services and schedules for specific tasks shall be authorized on a task order basis that identifies the specific scope of services, schedule, and fee structure.

5.6 Additional Information

The Authority and its respective officials, agents, representatives and employees make no representation or warranty and assume no responsibility for the accuracy of the information set

forth in this RFQ. Further, the Authority does not warrant nor make any representations as to the quality, content, accuracy or completeness of the information, text, graphics, links or other facet of this RFQ once it has been downloaded or printed from this or any server, and hereby disclaims any liability for technical errors or difficulties of any nature that may arise in connection with the Website or in connection with any other electronic medium utilized by respondents or potential respondents in connection with or otherwise related to the RFQ.

FORMS AND EXHIBITS:

FORM "A-1" State Finance Law Section 139 Certification

FORM "A-2" Offerer Certification of Compliance with State Finance Law §139-k(5)

FORM "A-3" Offerer Disclosure of Prior Non-Responsibility Determinations

FORM "B" Conflict of Interest Affidavit

FORM "C" Waiver of Damages

FORM "D" Statement of Non-Collusion

FORM "E" Business Information Form

FORM "F" Statement of Insurance

FORM "G" Confidentiality Notice

EXHIBIT "A" Information Regarding Authority Facilities

EXHIBIT "B" Form of Agreement with Standard Clauses for Authority Contracts

FORM "A-1"
RESPONDENT'S AFFIRMATION OF
UNDERSTANDING OF SECTION 139
PROCEDURES

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

By: _____ Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

FORM "A-2"
Offerer Certification of Compliance
with State Finance Law §139-k(5)*

Offerer Certification:

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

By: _____ Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

FORM "A-3"
(CONT)

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.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

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

By: _____ Date: _____

Signature

Name: _____

Title: _____

Form "B"
CONFLICT OF INTEREST AFFIDAVIT

STATE OF _____)
COUNTY OF _____) SS.:

_____, being duly sworn, deposes and says: He is an officer of _____, which is about to render services to MOSA as a contractor/consultant or in any other professional capacity (the "Firm") and agrees that the Firm has no interest and will not acquire any interest, direct or indirect, that would conflict in any manner or decree with the performance of its services to be rendered to MOSA.

That it is further agreed in the rendering of services to MOSA, no person having any such interest shall knowingly be employed by the undersigned or the Firm.

Respondent's Name: _____

Signature: _____
Authorized Official

Typed Name: _____

Title: _____

Date: _____

Sworn to before me this _____
day of _____, 2007.

NOTARY PUBLIC

Form "C" WAIVER OF DAMAGES

The Respondent and all affiliates understand that by submitting its Proposal to the Montgomery-Otsego-Schoharie Solid Waste Management Authority ("MOSA"), the Respondent is merely inviting MOSA to evaluate this Proposal with its proposed transportation and disposal needs and to negotiate an agreement between the Respondent and MOSA. The Respondent and all affiliates further understand that by submitting a Proposal and entering into any negotiations that may follow, the Respondent is acting at its own risk and, if appropriate, the Respondent and all affiliates hereby waive any rights any of them may have to receive any damages for any liability, claim, loss or injury resulting from any action or inaction on the part of MOSA concerning the evaluation and selection of Proposals by MOSA, any negotiations entered into for the services described in the RFP, or any award of a contract pursuant thereto.

DATE: _____

RESPONDENT:

[Signature of Authorized Official]

[Typed Name]

[Title]

Sworn to before me this _____
day of _____, 2007

NOTARY PUBLIC

Form "D" STATEMENT OF NON-COLLUSION

1. This Proposal has been independently arrived at without collusion with any other Respondent or with any competitor or potential competitor.
2. This Proposal has not been knowingly disclosed and will not be knowingly disclosed prior to the opening of Proposals to any other Respondent, competitor or potential competitor.
3. No attempt has been or will be made to induce any other person, partnership or corporation to submit or not to submit a Proposal.
4. The person signing this Proposal certifies that he/she has fully informed himself /herself regarding the accuracy of the statements contained in this certification, and, under the penalties of perjury, affirms the truth thereof (such penalties being applicable to the Respondent as well as the person signing on its behalf).

Date: _____

Chief Executive Officer:

[Signature]

[Typed Name]

Date: _____

Chief Financial Officer:

[Signature]

[Typed Name]

Form "E" BUSINESS INFORMATION

1. Name(s) of Firm: _____

2. Contact Person Regarding
This Proposal: _____

3. Phone No. _____ Business Fax No. _____

4. Check All Appropriate:

Closely Held Corporation - State of Incorporation _____

Publicly Held Corporation - State of Incorporation _____

Proprietorship

Name of Proprietor _____

Partnership

List of Principal Partners

5. FOR CORPORATION, list all current Company Officers and Directors.

Name

Title

Years Held

6. Name of Chief Executive/Operating Officer

Address: _____

Form "E"
(CONT)

7. Years In Business _____ Federal Tax I.D. No: _____

8. Financial References: _____

9. Has the entity or any of its Principals, Owners, Officers, Partners, Directors or Stockholders of the entity been the subject of a criminal investigation?

Yes [] No []

10. If the answer to the above is "Yes", state: the court in which the investigation is taking/took place; the approximate date the investigation commenced and, if applicable, concluded, the subject matter of the investigation and the identity of the person of entity(ies) involved:

11. Has any indictment arisen out of such investigation?

Yes [] No []

12. If the answer to the above is "Yes", state: the person or entity indicated and the status of any such indictment: _____

13. Has an entity, (i.e.) corporation, partnership, etc., in which a Principal, Owner, Officer, Partner, Director, or Stockholder has an ownership interest ever been the subject of a criminal investigation?

Yes [] No []

14. If the answer to the above is "Yes", state: the court in which the investigation is taking place; the approximate date the investigation commenced and, if applicable, concluded, the subject matter of the investigation and the identity of the person of entity involved:

Yes [] No []

Form “E”
(CONT)

15. Has any indictment arisen out of such investigation?
16. If the answer to the above is “Yes”, state: the person or entity indicted and the status of any such indictment:_____.

Form E
Attachment "A"

STOCKHOLDER LIST

RESPONDENT _____ IS A
[Name of]

CLOSELY HELD CORPORATION, THE RESPONDENT'S STOCKHOLDERS ARE:

	Name	Address	Office Position Held
a.	_____	_____	_____
b.	_____	_____	_____
c.	_____	_____	_____

Form E Attachment "D"

LIST NAMES OF ANY AFFILIATED CORPORATION OF RESPONDENT, BUSINESS AFFILIATION WITH RESPONDENT AND SPECIFY RELATIONSHIP:

IDENTIFICATION OF ALL SUB-CONTRACTORS PROPOSED TO BE USED TO FULFILL ANY PART OF THE OBLIGATIONS ANTICIPATED BY THIS PROPOSAL:

Form "F" STATEMENT OF INSURANCE

RESPONDENT _____ HAS
[Name of]

THE FOLLOWING POLICIES OF INSURANCE IN FULL FORCE AND EFFECT:

[Attach certificates showing endorsements & dates of coverage. Copies of policies to be made available upon request]

VEHICLE

1. Name of Insured _____
Insurance Company _____
Policy Limits _____
Period of Coverage _____
Vehicles Covered _____

GENERAL LIABILITY

1. Name of Insured _____
Insurance Company _____
Policy Type _____
Policy Limits _____
Period of Coverage _____

WORKERS' COMPENSATION

1. Name of Insured _____
Insurance Company _____
Policy Type _____
Policy Limits _____
Period of Coverage _____

ENVIRONMENTAL

1. Name of Insured _____
Insurance Company _____
Policy Type _____
Policy Limits _____
Period of Coverage _____

Form "G" CONFIDENTIALITY NOTICE

The data on page(s)

of this proposal, identified by an asterisk (*) or marked along the margin with a vertical line, contain technical or financial information which are considered to be proprietary information or trade secrets, the disclosure of which would cause substantial injury to the Respondent's competitive positions. The Respondent requests that such data be used only for the evaluation of the proposal, but understands that such data may otherwise be disclosed to the extent that the Montgomery-Otsego-Schoharie Solid Waste Management Authority ("MOSA") determines is necessary or proper for compliance with any law, order or decree of any court or agency of competent jurisdiction, or necessary or proper in MOSA's view to show compliance with any law, order or decree of any court or agency of competent jurisdiction.

Note:

Respondent is urged to only designate as confidential those materials which, in its opinion, clearly represent proprietary information or trade secrets. Cost proposal information and all proposed forms shall not be considered confidential.

Respondent

Signature of Authorized Official

Date

EXHIBIT “A”

INFORMATION REGARDING EXISTING FACILITIES

The **Oneonta Transfer Station (“OTS”)**, New York State Department of Environmental Conservation Permit No. 4-3612-00012/00001-0 with a permitted capacity of 200 tons per day, is located near Interstate I-88 at Exit 13 in the southeast section of the City of Oneonta (Otsego County), at 75 Silas Lane. All vehicles must enter the station by way of the truck scale located immediately adjacent to the station's scale house. Vehicles are then directed to the staging area adjacent to the building's tip floor. Waste materials are deposited on the transfer station's tip floor and loaded into transfer trailers over a tip wall by means of a rubber tire loader and the waste is packed with a backhoe. There are two scales so as to separately accommodate incoming and outgoing vehicles. Station hours are 7:00 a.m. to 3:00 p.m., Monday through Saturday.

The **Northern Transfer Station (“NTS”)**, New York State Department of Environmental Conservation Permit No. 4-3650-19/1-0 with a permitted capacity of 59 tons per day, is located one and one-half miles north of the Village of Cooperstown (Otsego County), at 5802 NY State Route 28. All vehicles must enter the station by way of the truck scale located immediately adjacent to the station's scale house. As herein indicated, this facility was converted to a convenience station effective January 1, 1997. Only waste delivered by homeowners is accepted at this location at this time. It is placed in transfer trailers over a tip wall and then is taken by Authority personnel to another Authority transfer station, usually the Western Transfer Station, to be staged for shipment. Currently the station hours are 8:00 a.m. to 2:30 p.m., Wednesday and Saturday.

The **Western Transfer Station (“WTS”)**, New York State Department of Environmental Conservation Permit No. 4-2736-000014/00001-0 with a permitted capacity of 600 tons per day, is located in the Town of Root (Montgomery County) at 4583 Route 5S, three miles east of NY State Route 162 and seven miles west of NY State Route 30A. All vehicles must enter the station by way of the truck scale located immediately adjacent to the station's scale house. Vehicles are then directed to the staging area adjacent to the building's tip floor. Waste materials are deposited on the tip floor and then loaded into transport trailers located in the drive through area on the lower level of the building. Material is evenly placed in the trailer by means of a backhoe stationed on the upper level tip floor. Station hours are 7:00 a.m. to 3:00 p.m., Monday through Friday. Saturday hours are 8:00 a.m. to 11:30 a.m.

The **Amsterdam Transfer Station (“ATS”)**, New York State Department of Environmental Conservation Permit No. 4-2701-00031/00001-0 with a permitted capacity of 600 tons per day is located in the southeast section of the City of Amsterdam (Montgomery County) at 1247 NY State Route 5S one-fourth mile east of NY State Route 30. All vehicles must enter the station by way of the truck scale located immediately adjacent to the station's scale house. Vehicles are then directed to the staging area adjacent to the building's tip floor. Waste materials are deposited on the floor and then loaded into transport trailers, which are located in the drive through area on the lower level of the building. The material is evenly placed in the trailer by means of a stationary crane, which is mounted in the center of the upper level tip floor. There are two weigh scales, to separately accommodate incoming and outgoing vehicles. Station hours are 7:00 a.m. to 3:00 p.m., Monday through Friday. Saturday hours are 8:00 a.m. to 11:30 p.m.

The **Schoharie Transfer Station (“STS”)**, New York Department of Environmental Conservation Permit No. 4-4326-00054/00001-0 with a capacity of 500 tons per day is located at 2805 NY State Route 7, one mile east of the intersection of NYS Rt. 7 and NYS Route 145 in the Town of Cobleskill (Schoharie County). All vehicles must enter the station by way of the truck scale located immediately adjacent to the station's scale house. Vehicles are then directed to the staging area adjacent to the building's tip floor. Waste materials are deposited on the tip floor and then loaded into transport trailers located in the drive through area on the lower level of the building. Station hours are 7:00 a.m. to 3:00 p.m., Monday through Friday. Saturday hours are 8:00 to 11:30 a.m.

EXHIBIT "B"

FORM OF AGREEMENT WITH STANDARD CLAUSES AGREEMENT FOR PROFESSIONAL SERVICES

(Purpose: _____)

Contract No. _____

THIS AGREEMENT FOR PROFESSIONAL SERVICES (_____) ("Agreement"), is made as of the ___ day of _____, 200_ by and between the Montgomery-Otsego-Schoharie Solid Waste Management Authority, a public benefit corporation of the State of New York (the "Authority"), and _____, a _____ organized under the laws of the State of _____ (hereinafter referred to as the "Consultant");

WITNESSETH:

WHEREAS, pursuant to a request for qualifications dated _____, 200__ entitled _____ for the _____ (the "RFQ"), the Authority has determined to enter into this Agreement providing for services of the Consultant for the purposes set forth in the RFQ;

NOW THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. SCOPE OF SERVICES.

- a. The Consultant shall render the professional services described in the Scope of Services attached hereto and made a part hereof as **Exhibit "B" to Form of Agreement** (hereinafter referred to as the "Scope of Services").
- b. During the period from the date of this Agreement to the end of the **Initial Term**, the Consultant shall perform such additional services as Consultant as may be requested in writing by the Executive Director, at the hourly rates and actual expenses specified in **Section 7** (such additional services being referred to herein as "Additional Services"). Prior to undertaking any such Additional Services the Consultant shall propose a budget and schedule for each proposed project, to be approved by the Executive Director prior to commencing work. No work shall be considered Additional Services unless specifically agreed to in writing by the Executive Director.

Section 2. CONSULTANT QUALIFICATIONS; REPRESENTATIONS; NO CONFLICTS.

- a. The Consultant represents and covenants that (i) it is a consultant meeting the qualifications set forth in the RFQ; (ii) it is experienced in performing work of the types contemplated by the Scope of Services; (iii) at all times during the term of this Agreement the persons assigned to perform services have and will have the experience, knowledge, and licenses necessary to perform the services described herein; (iv) the Consultant is fully qualified to perform the Scope of Services, with capability to perform the Scope of Services and timely deliver a work product as required by this agreement, (v) the Consultant will procure and maintain all licenses and permits necessary to perform the work described in this Agreement, and (vi) the Consultant will comply with the provisions of the Labor Law and all State laws and Federal and local statutes, ordinances and regulations that are applicable to the performance of this Agreement.
- b. Unless otherwise authorized in writing in advance by the Authority, the persons primarily responsible for performing work under this Agreement, including any subcontractors, shall be as set forth at **Exhibit "C" to Form of Agreement**. Any subcontractors shall be bound by the provisions of this Agreement, shall be subject to prior review and approval by the Authority, and any such subcontract shall be deemed to include the Standard Clauses attached hereto as **Exhibit "A" to Form of Agreement**.
- c. The Consultant represents and warrants that (i) the Consultant has all requisite power and Authority to execute, deliver and perform this Agreement; (ii) this Agreement has been duly authorized by all necessary action on the part of the Consultant and has been duly executed and delivered by the Consultant and, assuming due execution and delivery by the Authority, constitutes a legal, valid, binding and enforceable obligation of the Consultant; and (iii) the execution and delivery of this Agreement, and compliance with the provisions hereof, do not and will not conflict with or constitute a violation of or default under the organization documents, or any statute, indenture, mortgage, deed of trust or other agreement or instrument to which the Consultant is bound, or to the knowledge of the Consultant, any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Consultant or any of its activities or properties.
- d. The Consultant represents and warrants that it has not entered into any agreement for services with any other party with respect to any activities within or relating to the Scope of Services under this Agreement, other than such subcontracts as are specifically set forth at **Exhibit "C" to Form of Agreement**, and a copy of each of which are attached hereto at **Exhibit "E" to Form of Agreement**. The Consultant shall accept no other compensation, directly or indirectly, from any party, other than the Authority, for any services connected with the work described in the Scope of Services.
- e. The Consultant represents and warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a

- e. bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent on or resulting from the award or making of this Agreement. In the event of breach of this provision the Authority shall have the option to annul this Agreement without liability or deduct from the Agreement consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or other consideration.

Section 3. TERM AND COMPLETION SCHEDULE. The Scope of Services shall commence upon the delivery by the Authority to Consultant of a notice to commence work under this Agreement (the "Commencement Date") and shall be completed within the term set forth at **Exhibit "D" to Form of Agreement** ("Initial Term"). The Scope of Services shall be completed within the period specified at **Exhibit "D" to Form of Agreement** except as extended by the Authority in writing. Any extension granted shall be for work and payment purposes only and shall not result in any additional Consultant Costs other than those agreed to herein.

Section 4. REPORTS; RIGHT TO INSPECT. The Consultant shall report to the Authority as specified at **Exhibit "B" to Form and Agreement**. The Authority staff and its duly authorized representatives shall have the right at all times to inspect and receive copies of the work of the Consultant without additional charge.

Section 5. STANDARD CLAUSES. This Agreement is subject to the terms attached hereto as **Exhibit "A" to Form of Agreement** and incorporated herein by reference.

Section 6. DELIVERABLES. The Authority staff will provide deliverables, if any, as specified in **Exhibit "B" to Form of Agreement**. In the event that such deliverables are not provided within six (6) weeks of the date hereof, the Consultant may request an extension on the term of this Agreement.

Section 7. FEES AND EXPENSES.

- a. As compensation for the Services performed pursuant to this Agreement, including all expenses, the Authority shall pay the Consultant its fees and expenses as set forth at **Exhibit "C" to Form of Agreement**, not to exceed the maximum amount set forth at **Exhibit "C" to Form of Agreement** ("Fees and Expenses").
- b. The expenses provided for herein shall be limited to the expenses actually and reasonably incurred in connection with the performance of the Scope of Services, of the types listed at **Exhibit "C" to Form of Agreement**. Unless otherwise approved in advance by the Executive Director, the Authority shall not pay for the following: (1) secretarial or word processing time (normal, temporary or overtime); (2) taxis or private cars, except (i) for travel after 7:00 p.m. when the partner in charge of the matter determines that it is necessary to perform work after normal business hours, (ii) where public transportation is not reasonably available, or (iii) where heavy or bulky material must also be transported; (3) meal charges, except for actual and reasonable expenses (i) when the partner in charge of the

matter determines that it is necessary to perform work after normal business hours, or (ii) which are required for business purposes, such as expenses incurred while hosting working group meetings or closings; or (4) time spent in preparing bills.

The Consultant may bill the Authority for direct out-of-pocket expenses as follows (charges as shown below unless otherwise specified at **Exhibit "C" to Form of Agreement**):

Long distance telephone charges	-	Actual cost
Reproduction	-	\$0.25 per page
Fax	-	\$1.00 per page
Computer research	-	Actual cost
Out-of-town travel	-	Coach fare and reasonable and necessary accommodations and meal charges for breakfast and dinner.
Postage and Overnight Mail	-	Actual cost
Messenger Service	-	Actual cost of necessary messenger services.

Any reimbursement for travel, meals and lodging shall be made at the actual cost paid, but such reimbursement shall not exceed the prevailing maximum rates established by the New York State Comptroller. Any out-of-state travel must be approved in advance by the Executive Director. Disbursements and expenses shall be itemized by category. Unless otherwise agreed, expenses shall be billed at the same time as the services to which they relate.

Upon request, the Advisor shall provide the Authority with detailed documentation substantiating all fees and disbursements. This documentation shall be maintained by the Consultant(s) for a period of six years after the completion of the matter. During that period, the Authority shall have the right to audit the Consultant's charges.

Section 8. PAYMENT.

- a. Work within the Scope of Services shall be billed monthly in accordance with the schedule of hourly rates attached hereto at **Exhibit "C" to Form of Agreement**, unless otherwise agreed in writing by the Authority.

Upon request, the Consultant shall provide monthly statements with respect to accrued fees and disbursements for any matters subject to a periodic retainer or cap.

- b. For any Additional Services agreed by the Authority and the Consultant to be unrelated to the Scope of Services set forth at **Exhibit "B" to Form of Agreement**, the Authority shall pay for services rendered in accordance with the schedule of hourly rates attached hereto at **Exhibit "C" to Form of Agreement**. Prior to undertaking any such Additional Services, the Consultant shall inform the Authority that such services will be billed as Additional Services, shall provide an estimate of the total fees and expenses to be charged for such

additional Services, and shall obtain the Authority's written authorization prior to commencing such work. For such other services, the Consultant shall submit invoices not more often than once a month.

- c. All statements shall provide (a) the name and position of each individual whose time is billed; (b) the billing rate for each individual; (c) the number of hours expended on behalf of the Authority on any day that the individual performed services for the Authority; (d) a brief description of the task(s) performed each day for which time is billed; and (e) the total number of hours billed for services rendered to the Authority by each individual during the billing period. Copies of detailed documentation substantiating all disbursements and/or out-of-pocket expenses over \$25 shall be provided to the Authority. Disbursements and expenses shall be itemized by category. Unless otherwise agreed, any authorized expenses shall be billed at the same time as the services to which they relate. Invoices shall be submitted to: Montgomery-Otsego-Schoharie Solid Waste Management Authority, P.O. Box 160, Howes Cave, NY 12092, to the attention of Gilbert L. Chichester, Executive Director. The Consultant shall maintain separate billing records with respect to each matter undertaken by the Consultant. At the Authority's request, the Consultant shall submit invoices on forms provided by the Authority.

The acceptance by the Consultant of final payment under this Agreement shall operate as and be a release to the Authority from all claims and liability to the Consultant, its representatives and assigns for any and all things done, furnished for or relating to the services rendered by the Consultant under or in connection with this Agreement or for any part thereof.

Section 9. OWNERSHIP OF DOCUMENTS.

All documents, reports, opinions, source code, system documentation, and other materials prepared for or relating to the Services provided hereunder shall be at all times the sole and exclusive property of the Authority, and shall be treated as confidential by the Consultant except as expressly authorized by the Authority. All work product created in connection with this Agreement, including working papers, data, maps, drafts, and other information in whatever form shall at all times be and remain the property of the Authority.

Section 10. INDEPENDENT STATUS; TAXES.

- a. The Consultant and their employees, agents, contractors, subcontractors and/or consultants, are independent contractors and not employees of the Authority. In accordance with their status as independent contractors, the Consultant covenants and agrees that neither the Consultant nor its employees or agents will hold themselves out as, nor claim to be, officers or employees of the Authority.
- b. Nothing in this agreement shall impose any liability or duty on the Authority for the acts, omissions, liabilities or obligations of the Consultant, or any person, firm, company, agency, association, expert, consultant, independent contractor, specialist, trainee, employee, servant,

or agent of the Consultant for the payment of taxes of any nature including but not limited to sales tax, unemployment insurance, workman's compensation, disability benefits and social security, or, except as specifically stated in this Agreement, to any person, firm or corporation.

Section 11. INSURANCE.

- a. The Consultant shall at all times maintain in force during the term of this Agreement, and shall provide evidence satisfactory to Authority, of the following policies of insurance:
 - i. Professional errors and omissions insurance with a U.S. domiciled company providing limits of not less than \$1,000,000 per claim, \$2,000,000 aggregate, with extended reporting period or automatic coverage of not less than two years. If provided as an option, the Consultant shall agree to purchase an extended reporting period on cancellation or termination unless a new policy is affected with a retroactive date, including at least the last policy year.
 - ii. Workers' compensation and other statutory coverage required by New York Law without regard to jurisdiction.
 - iii. Commercial general liability, combined single limit--bodily injury and property damage, \$1,000,000 per occurrence and \$2,000,000 general aggregate;
 - iv. Automobile Liability Combined single limit--bodily injury and property damage, \$1,000,000 per occurrence, comprehensive, owned, hired, non-owned.
 - v. Such other insurance as shall be required in writing by the Authority at the Authority's expense.
- b. Any policy required to be maintained under this section shall be from a company rated at least A/X by Best's Rating Service and properly licensed in the State of New York, and shall provide that the policy shall not be canceled, materially changed, or not renewed without thirty (30) days' prior notice thereof to the Authority.
- c. Prior to the effective date of this contract, and as a condition precedent to this Agreement, the Consultant shall furnish the Authority with certificates of insurance listing the Authority as a certificate holder, and upon demand, shall provide such policies to the Authority. At least thirty (30) days prior to expiration of any policy required by this Agreement, the Consultant shall furnish the Authority evidence satisfactory to the Authority of the continuation of such coverage in accordance with this Agreement.

Section 12. INDEMNIFICATION. The Consultant shall defend and indemnify the Authority and their officers, employees and agents (the "Indemnified Parties"), and save the Indemnified Parties harmless from any liability, damage, claims, demands, costs or loss arising directly and indirectly out of the Consultant's or its officers', employees', agents', contractors',

subcontractors' or consultants' respective negligent acts or omissions pursuant to this Agreement, including without limitation negligent performance of services under this Agreement, and such indemnity may not be limited by reason or enumeration of any insurance coverage required. Negligent performance of services, within the meaning of this section, shall include, in addition to negligence founded upon tort, negligence based upon Consultant's failure to meet professional standards and resulting in obvious or patent errors in the progression of its work.

Section 13. RIGHT TO AUDIT AND RECORDS.

- a. The Consultant shall maintain accurate and complete records detailing the back-up documentation required by this Agreement, and shall maintain such documents for a period of six years from document generation and shall allow the Authority access thereto for inspection and photocopying at all reasonable times.
- b. All receipts and disbursements are subject to audit by the Authority, and the Consultant agrees to cooperate with any audit of this Agreement undertaken by the Authority or any entity with jurisdiction to audit the Authority.

Section 14. COMPLIANCE WITH LAW. The Consultant shall comply with all Federal, State and local laws, rules and regulations applicable to performing the Services herein.

Section 15. DEFAULTS AND REMEDIES.

- a. If either party defaults in the observance or performance of any material term of this Agreement, and such default continues for more than thirty (30) days after written notice of such default is received by the defaulting party from the non-defaulting party, such non-defaulting party may take any action available at law or in equity to enforce the terms of this Agreement, and may suspend work or terminate this Agreement upon thirty (30) days written notice to the defaulting party. If the default is not capable of being cured within thirty (30) days and the defaulting party has commenced cure within thirty (30) days and is diligently pursuing efforts to cure, such thirty (30) day period shall be extended for a reasonable period of time.
- b. If either party is required to enforce the terms of this Agreement, the prevailing party will be entitled to recover its reasonable attorneys' fees and costs. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.
- c. No delay or omission in exercising any remedy shall impair any such remedy or construed to be a waiver thereof. It shall not be necessary to give any notice other than as expressly required under this Agreement. In the event any provision contained in this Agreement should be breached and thereafter duly waived by the party or parties so empowered to act,

such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Agreement shall be established by conduct, custom or course of dealing.

Section 17. EARLY TERMINATION. The Authority shall have the right to postpone, suspend, abandon or terminate this Agreement with or without cause, and such action shall in no event be deemed a breach of contract. Upon termination by the Authority without cause under this section, the Consultant shall be entitled to compensation for acceptable completed Services performed through the date of postponement, suspension, abandonment or termination, such Services to be verified by audit. In the event that this Agreement is terminated by the Authority for any reason, then within ten days after such termination, the Consultant shall make available to the Authority all records, documents and data pertaining to Services rendered under this Agreement.

Section 18. NOTICES. Unless otherwise specified, all notices required or permitted for herein shall be in writing and sent by certified mail, postage prepaid, or by hand, by overnight courier, or by telecopy confirmed by any of the previous methods, addressed to the parties as indicated below or to such addresses as they may designate in writing from time to time:

To the Consultant:

At the address specified on the signature page of this agreement.

To the Authority at:

Gilbert Chichester, Executive Director
Montgomery-Otsego-Schoharie Solid Waste Management Authority
P.O. Box 160, NYS Route 7
Howes Cave, New York 12092

Telephone: (518) 296-8884

Fax: (518) 296-8937

With a copy to:

Christine M. Chale, Esq.
Rapport, Meyers, Whitbeck,
Shaw & Rodenhausen, LLP
Dooley Square
35 Main Street, Suite 541
Poughkeepsie, NY 12601

(845) 473-7766

(845) 473-7790 fax

Section 19. SEVERABILITY. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, but this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

Section 20. AGREEMENT IS A LEGALLY BINDING CONTRACT. Each party hereto represents and warrants that this Agreement has been duly authorized and executed by it and constitutes its valid and binding agreement, and that any governmental approvals necessary for the performance of this Agreement have been obtained.

Section 21. NO THIRD PARTY BENEFICIARY. Nothing in this agreement shall act to confer third party beneficiary rights on any person or entity not a party to this Agreement.

Section 22. NO RECOURSE All covenants, stipulations, promises, agreements and obligations of the Authority contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Authority, and not of any member, director, officer, employee or agent of the Authority in his individual capacity, and no recourse shall be had for the payment of any claim based under this Agreement against any member, director, officer, employee or agent of the Authority.

Section 23. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.

Section 24. ENTIRE AGREEMENT; GOVERNING LAW AND JURISDICTION; AMENDMENT. This Agreement contains the entire understanding between the parties with respect to the subject matter herein and supersedes any prior agreements or understandings, either oral or written. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York. The parties agree that any dispute or controversy arising out of this Agreement shall be venued in the jurisdiction of the Authority's headquarters. This Agreement may be amended only upon mutual written agreement signed by both parties.

Section 25. HEADINGS. The headings herein are solely for convenience of reference, and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.

**MONTGOMERY-OTSEGO-SCHOHARIE
SOLID WASTE MANAGEMENT
AUTHORITY**

By: _____
Executive Director

_____,
Consultant

By: _____
Title: _____
Consultant's Notice Address: _____

This Agreement consists of the Agreement (10 pages including this execution page), together with the following Exhibits:

EXHIBIT "A" STANDARD CLAUSES

EXHIBIT "B" SCOPE OF SERVICES

EXHIBIT "C" FEES AND EXPENSES

EXHIBIT "D" TERM AND COMPLETION DEADLINES

EXHIBIT "E" SUBCONTRACTS

EXHIBIT "F" SFL 139 CERTIFICATES

**Execution Page for AGREEMENT FOR PROFESSIONAL SERVICES
(Purpose: _____)**

Contract No. _____

EXHIBIT "A" TO FORM OF AGREEMENT

STANDARD CLAUSES

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract or "this 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 Authority, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. **NON-ASSIGNMENT CLAUSE.** This contract may not be assigned, and no part or portion may be subcontracted, by the Contractor nor may its right, title or interest therein be assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the Authority and any attempts to assign the contract without the Authority's written consent are null and void.

2. **WORKERS' COMPENSATION BENEFITS.** 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, including coverage for the Authority as owner for claims arising under the Labor Law of the State of New York

3. **NON-DISCRIMINATION REQUIREMENTS.** In accordance with 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 age, race, creed, color, national origin, sexual orientation, military status, sex, disability, genetic predisposition or carrier status, or marital 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, the 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 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.

4. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Article 15-A of the Executive Law, if this contract is: (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000, 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 (b) a written agreement in excess of \$100,000 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 (c) a written agreement in excess of \$100,000 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:

- (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 the request of the contracting agency, 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 on the basis of race, creed, color, national origin, sex, age, disability, or marital status, and that agency, union, or representative will affirmatively cooperate in the implementation of the contractor's obligations herein.
- (3.)The Contractor shall state, in all solicitations or advertisements for employees, that in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status.

5. 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.

6. **NON-COLLUSIVE BIDDING REQUIREMENT.** In accordance with Public Authorities Law Section 2878, if this contract was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the Authority a non-collusive bidding certification on Contractor's behalf.

7. **INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of this 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 Authority within five (5) business days of such conviction, determination or disposition of appeal.

8. **SET-OFF RIGHTS.** The Authority shall have rights of set-off. These rights shall include, but not be limited to, the Authority'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 by the contractor to the Authority with regard to this contract, or any other contract with the Authority, including any contract for a term commencing prior to the term of this contract. This also includes amounts due and owing the Authority for any other reason including, without limitation, monetary penalties, adjustments, fees, or claims for damages by the Authority and third parties in connection therewith.

9. **RECORD-KEEPING REQUIREMENT.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts or other evidence directly pertinent to performance under this contract (the "Records") for a period of six (6) years following final payment or to the termination of this contract, whichever is later, and any extensions thereto. The Authority and Attorney General or any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to such records during the contract term, extensions thereof and said six (6) year period thereafter for the purposes of inspection, auditing and copying. "Termination of the contract", as used in this clause 9, shall mean the later of completion of the work of the contract or the end date of the term stated in the contract. The Authority shall take reasonable steps to protect from public disclosure any of the records which are exempt from disclosure under § 87 of the Public

Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform the Authority's Executive Director with a copy to its Records Access Officer, 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, the Authority's right to discovery in any pending or future litigation.

10. **LIABILITY.** Contractor shall be responsible for all damage to life and property due to negligent or otherwise tortious acts, errors or omissions of Contractor, in connection with their services under this contract. Further, it is expressly understood that Contractor shall indemnify and save harmless the Authority from claims, suits, actions, damages, and costs of every name and description resulting from the negligent performance of the services of Contractor under this contract, and such indemnity shall not be limited by reasons of enumeration of any insurance coverage herein provided.

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

12. **LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Public Authorities Law Section 2880.

13. **NO ARBITRATION AND SERVICE OF PROCESS.** 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. In addition to the methods of service allowed by the State Civil Practice Law & Rules, 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 Authority's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the Authority, in writing, of each and every change of address to which service of process can be made. Service by the Authority to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

14. **OBSERVANCE OF LAWS.** The Contractor agrees to observe all Federal, State and local laws and regulations and to procure all necessary licenses and permits.

15. **IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.**

Federal Employer Identification Number and/or Federal Social Security Number:

All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's, i.e., the seller's or lessor's, identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both when the payee has both such numbers. Failure to include the number or numbers may delay payment. Where the payee does not have such number or numbers, the payee must give, on his or her

invoice or New York State standard voucher, the reason or reasons why the payee does not have such number or numbers.

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 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 agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. This information is maintained in New York State's Central Accounting System by the Director of State Accounts, Office of the State Comptroller, AESOB, Albany, New York 12236.

16. DISQUALIFICATION TO CONTRACT WITH PUBLIC AUTHORITY.

The Contractor has not been disqualified from selling to or submitting bids to or receiving awards from or entering into any contracts with any public authority or any official of any public authority created by the state or any political subdivision, for goods, work or services. Upon the refusal by a person, when called before a grand jury, head of a state department, temporary state commission or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with any public department, agency or official of the state or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract, (a) such person, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids or receiving awards from or entering into any contracts with any public authority or official thereof, for goods, work or services, for a period of five years after such refusal, and (b) any and all of the contracts made with any public authority or official thereof, since the effective date of § 2875 of the Public Authorities Law, by such person and by any firm, partnership or corporation of which he is a member, partner, director or officer may be cancelled or terminated by the public authority without incurring any penalty or damages on account of such cancellation or termination, but any monies owing by the public authority for goods delivered or work done prior to the cancellation or termination shall be paid.

17. **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 ' 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

18. **STATE FINANCE LAW SECTION 139.** The Contractor hereby certifies that all information provided to the Authority with respect to State Finance Law § 139 is complete, true and accurate. The Authority reserves the right to terminate this Contract in the event it is found that the certification filed by the Contractor in accordance with the New York State Finance Law § 139-k, was intentionally false or intentionally incomplete. Upon such finding, the Authority may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.

19. **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, the terms of this Exhibit shall control, except that to the extent required for the purpose of obtaining Federal Aid in connection with this contract, any contract provisions required for Federal Aid projects shall supersede any conflicting provisions.

20. **ENTIRE AGREEMENT.** This contract, together with this Exhibit, constitutes the entire understanding between the parties and there are no other oral or extrinsic understandings of any kind between the parties. This contract may not be changed or modified in any manner except by a subsequent writing, duly executed by the parties hereto.

EXHIBIT "B" TO FORM OF AGREEMENT

Scope of Services

PURPOSE: _____

CONTRACT NO. _____

The Scope of Services shall include the following:

Services described in the RFQ, attached hereto

Services described in the Consultant's Proposal dated _____, together with addenda dated _____, provided that any such description in the Consultant's Proposal shall not limit the services described in the RFQ except as specifically set forth below:

Draft and Final Reports Due:

Documentation Delivery: The Consultant shall provide to the Authority hard copy and electronic copy, if produced in electronic form, of all deliverables.

Consultant Project Manager:

Itemize Authority Deliverables, if any:

EXHIBIT "C" TO FORM OF AGREEMENT

Fees and Expenses

PURPOSE: _____

CONTRACT NO. _____

Periodic Retainer (if applicable): \$ _____ per _____

Name and Hourly Rate of all Employees to Perform Services:
(See attached Exhibit C-1 "Estimated Direct Labor")

Applicable Overhead and Profit Percentages: (See attached Exhibit C-2 "Fee Summary")

Expense Items and Rate: (See attached Exhibit C-3 "Estimated Expenses")

Approved Subcontractors:

Maximum Fees and Expenses for Scope of Services:

Total not to exceed \$ _____.

Retainage (if applicable):

Additional Services: Any approved Additional Services are to be billed at the Hourly Rates specified above. All Additional Services require the advance written approval of the Executive Director and may require additional Board approval. Services performed without such authorization are at the Consultant's risk and under no circumstances shall the Authority be obligated for payment.

EXHIBIT “D” TO FORM OF AGREEMENT

Term and Completion Deadlines

PURPOSE: _____

CONTRACT NO. _____

Commencement Date:

Initial Term:

Completion Deadlines for Deliverables:

EXHIBIT “E” TO FORM OF AGREEMENT

Subcontracts

PURPOSE: _____

CONTRACT NO.

EXHIBIT “F” TO FORM OF AGREEMENT

SF 139 Certificates

PURPOSE: _____

CONTRACT NO. _____