NEW YORK STATE OF OPPORTUNITY. | Canal Corporation

# NEW YORK STATE CANAL CORPORATION
## PRESENTS A
# PUBLIC AUCTION
## OF SURPLUS REAL PROPERTY

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**THE SUBJECT PARCEL IS APPROXIMATELY 3.915± ACRES OF CANAL LAND LOCATED IN THE TOWN OF HASTINGS, COUNTY OF OSWEGO**

## MINIMUM BID $25,000

**SEALED BIDS MUST BE RECEIVED**
**NO LATER THAN 1 PM ON AUGUST 4, 2017**

**THE AUCTION SHALL BE HELD AT 1 PM ON AUGUST 8, 2017**

**AT:**

**NEW YORK STATE CANAL CORPORATION**
**CONFERENCE ROOM 524**
**30 SOUTH PEARL STREET, 5TH FLOOR**
**ALBANY, NEW YORK 12207**

**BIDDER CHECK-IN: 12:30 P.M.**
**OPENING OF SEALED BIDS: 1:00 P.M**

**DIRECTOR**
**BRIAN U. STRATTON**

**GOVERNOR**
**ANDREW M. CUOMO**

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## PRE-AUCTION TERMS, CONDITIONS AND INFORMATION

1. INTRODUCTION: Title to the property (hereinafter the "Property") being made available for sale at this auction is held in the name of the People of the State of New York (hereinafter the "State") under the jurisdiction of the New York State Canal Corporation (hereinafter the "Corporation"). Section 10 (17) of the Canal Law authorizes the Corporation to abandon canal lands that are no longer necessary or useful for canal purposes, and Section 382(7)(g) of the Public Authorities Law authorizes the Corporation to dispose of real property. This auction is being held in accordance with the Canal Real Property Management Policy (hereinafter the "Policy"), adopted by the Corporation pursuant to the Public Authorities Law. A copy of the Policy may be obtained at http://www.canals.ny.gov under the "Doing Business" Tab found at the top of the page.

   The Property is subject to withdrawal, and the auction is subject to cancellation on or before the date of auction.

   As part of the Auction process, the highest bidder is required to give the Corporation an earnest-money deposit (referred to hereinafter as the "Deposit") that is equal to ten percent (10%) of the acknowledged highest bid. The Deposit shall be delivered in two checks, one delivered as the partial Deposit (as described in Paragraph 2(b) below) and the other as the Deposit balance (as described on Page 8, Paragraph 1 of the Post-Auction Terms And Conditions section hereof).

   Any bid made at this auction is subject to the approval of the executed Agreement for Sale of Real Property by the New York State Attorney General (hereinafter the "Attorney General"). No brokerage commission shall be paid, and no buyer premium shall be charged, by the Corporation at this auction.

2. AUCTION PROTOCOL: This auction shall be conducted via sealed bids. The following are required: (a) pre-registration of bidders and pre-submission of bids; (b) bidder attendance and delivery of a partial deposit at the auction; and (c) execution of a sale agreement at the auction by the highest bidder.

   (a) PRE-REGISTRATION AND PRE-SUBMISSION OF BIDS REQUIRED: In order to participate in the auction, prospective bidders, or their respective duly authorized Agent (see Pages 4-5, Paragraph 3, hereof), must register and submit their bids in writing, and in advance of the auction. All registrations and respective bids must be received concurrently by the Corporation no later than 1:00 p.m. August 4, 2017.

   The following items are provided as part of this Bid Package:

   (a) a Bidder Pre-registration Form; (b) the Bid Form; (c) ATTACHMENT 1- Bidder/ Contractor Compliance with State Finance Law §§ providing for certain procurement disclosures; (d) Affidavit of Authority to Execute Real Property Documents; (e) the Bid Envelope; and (f) the Return Envelope.

   The Amount of Bid to be inserted in the Bid Form must be at least $25,000, the *minimum bid* stated on page 9 hereof. Place the completed Bid Form (b) inside the Bid Envelope (g) and seal it. Then place the sealed Bid Envelope (e), along with the completed Bidder Pre-registration Form (a) and the forms listed above as item (c) inside the Return Envelope (f), before sealing it, and submitting it to the Corporation.

**Do not place the Bidder Pre-registration Form (a) and the attendant forms (c) inside the Bid Envelope (e). Improperly completed and/or submitted forms and/or envelopes will not be considered and will be returned.**

(b) BIDDER ATTENDANCE AND PARTIAL DEPOSIT REQUIRED AT AUCTION: Each registered bidder or its duly authorized Agent (see Paragraph 3 below) must be in attendance with the partial Deposit on the date and at the time of the auction in order for the bid to be valid. At the time of check-in on the day of the auction, each pre-registered bidder must present for inspection its partial Deposit in the form of a bank or certified check in the amount of $2,500, made payable to the *New York State Canal Corporation*. Cash and/or personal checks will not be accepted. If the partial Deposit check is acceptable, a unique identification number will be assigned and announced during the opening of bids.

(c) EXECUTION OF SALE AGREEMENT AT AUCTION REQUIRED: The acknowledged highest bidder will be required to execute an Agreement for Sale of Real Property (hereinafter the "Agreement") at the auction. No Agreement shall be effective unless also executed by the Corporation and the State; and approved by the Attorney General. A sample copy of the Agreement is contained herein. *Prospective bidders are urged to carefully read the sample of the Agreement and Property information, as well as all other portions of this Bid Package, and to consult with an attorney.*

3. BIDDING BY AGENT: A prospective bidder may bid by and through another individual (referred to hereinafter as "Agent"), provided that at pre-registration the Agent submits written verification, acceptable to the Corporation, that the Agent is duly authorized to act on behalf of the bidder.

1. In all instances, an Agent must submit a separate signed, notarized Affidavit of Authority to Execute Real Property Documents in the form included in this Bid Packet.

2. In addition:

(a) If the Agent is acting on behalf of an individual, the written verification must include a *certified* copy of a *duly executed and acknowledged* Power of Attorney that explicitly authorizes the attorney-in-fact to bid and to carry out real estate transactions. The Power of Attorney must be accompanied by a notarized affidavit affirming that the Principal is alive and that the Power of Attorney is in full force and effect.

(b) If the Agent is acting on behalf of an entity (e.g., corporation, limited liability company, partnership, not-for-profit corporation), the written verification must include either:

(i) a *certified* copy of such entity's authorization that *duly authorizes* the Agent to bid and to execute real property documents and agreements on behalf of the bidder (e.g., a duly authorized resolution of the entity's governing body or organizational documents clearly setting forth such authorization). If the authorization identifies only the title of the Agent and not the Agent's name, proof acceptable to the Corporation that the Agent presently holds such title must also be submitted (e.g., an affidavit from the secretary of the corporation affirming that the Agent presently holds such title); or

(ii) a *certified* copy of a *duly executed and acknowledged* Power of Attorney that explicitly authorizes the attorney-in-fact to bid and to carry out real estate transactions, and a *certified* copy of the entity's authorization of such Power of Attorney (e.g., a corporate resolution, operating agreement,).

**In all instances, written verification of such authorization for an Agent of an entity must be *certified* by an appropriate officer of the entity, and must include explicit authority to bid and to execute real property documents and agreements. The officer's *certification* must indicate that the written verification, such as a corporate resolution, is true, accurate, duly adopted, in full force and effect, and in conformance with the entity's organizational documents.**

The Corporation reserves the right to request additional information and documentation should the documentation furnished at the time of pre-registration be insufficient in the sole discretion of the Corporation.

Further, the Corporation reserves the right to refuse acceptance of any Agent substitutions within the five (5) day period immediately preceding the date of the auction. Acceptability of all proof of authority and or authorization shall be at the sole judgment of the Corporation.

Listed below are some illustrative examples of written verification that may be acceptable; however, the list is not comprehensive, and bidders must review their own individual situation to determine which documents must be submitted.

*Corporation:* A resolution of the board of directors certified by an appropriate officer to be true, accurate, duly adopted, in full force and effect, and in conformance with the corporation's organizational documents (e.g., the articles of incorporation and the corporate bylaws).

*Partnership:* A resolution of the full governing body of the partnership certified by a general partner to be true, accurate, duly adopted, in full force and effect, and in conformance with the partnership's organizational documents (e.g., a partnership certificate and the partnership agreement).

*Limited Liability Company (LLC):* A resolution of the full governing body of the LLC, certified by an appropriate member or manager, to be true, accurate, duly adopted, in full force and effect, and in conformance with the organizational documents of the LLC (e.g., the articles of organization and the operating agreement).

4. NON-COLLUSIVE BIDDING: It is illegal for people to agree either before, during, or after the bidding to hold down the price(s) at auctions by not bidding against one another. The Bidder Pre-registration Form includes therein a "Non-Collusive Bidding" affirmation to which a registrant/bidder is to attest under the penalty of perjury. Violators will be prosecuted to the fullest extent of the law.

5. AUCTION, PROCUREMENT & PROPERTY INFORMATION/PERMISSIBLE CONTACT: This auction and procurement are subject to, and shall be conducted in accordance with Attachment 1- Bidder/ Contractor Compliance with State Finance Law §§ 139-j and 139-k providing certain procurement disclosures (see page 30 hereof). All questions concerning the auction, procurement, or Property must be addressed to: Mr. David Boshart • New York State Canal Corporation • 30 South Pearl Street • Albany, New York 12207. Mr. Boshart may be contacted at (518) 449-6031. Bidders and prospective bidders may not contact any other Corporation officer, employee, contractor, agent, or any other State entity relative to this auction (except as provided in the Guidelines). The Auction will be held at 1 PM on August 8, 2017.

6. PROHIBITION ON EMPLOYEE PARTICIPATION: Pursuant to Sections 73 and 74 of the Public Officers Law, all Authority/Corporation employees, and their spouses and relatives, are prohibited from participating in the auction. The term "relative" shall mean any person living in the same household as the employee and/or any person who is either a direct descendant of the employee's grandparents or the employee's spouse's grandparents, and all persons for whom either the employee or the employee's spouse is legally responsible. "Step" and "In-law" relatives of the employee or employee's spouse are considered relatives under this definition.

## TERMS AND CONDITIONS OF AUCTION

1. AUCTION RULES AND PROCEDURE: Prior to opening the auction, the auctioneer will announce the rules and procedure under which the auction will be conducted.

2. PROMPT CHECK-IN BY BIDDERS: Pre-registered bidders should arrive promptly for check-in so that the opening of bids can commence in a timely manner.

3. TIE/ADJOURNMENT OF AUCTION: In the event of a tie for the highest bid, the Corporation will review the employer tax identification number or social security number (whichever may be applicable) of each high bidder as stated on the Bidder Pre-Registration Form. The Corporation will then break the tie by deeming the high bidder with the lowest employer identification number or social security number to be the highest bidder, and will so note it on the Preliminary Bid List.

4. EXECUTION OF AGREEMENT AND PARTIAL PAYMENT OF DEPOSIT: Immediately at the conclusion of the opening of bids, the acknowledged highest bidder, or its duly authorized Agent, must: (a) execute the Agreement in the presence of the Corporation's representative (with valid photo identification); and (b) deliver the required partial Deposit of $2,500 to the Corporation's representative. Such partial Deposit shall be delivered with the understanding that it will: (i) be retained by the Corporation in the event that the bidder fails to comply with Paragraph 1 of "Post- Auction Terms and Conditions" hereof; (ii) serve as a portion of liquidated damages in the event of a default under the Agreement; (iii) be applied as a credit toward the purchase price if the sale is consummated; or (iv) be refunded in the event that the Corporation rejects the bid (see Paragraph 3 of "Post-Auction Terms and Conditions"); provided, however, that to the fullest extent permitted by law, the Corporation reserves the right to retain such deposit if the bid is rejected for cause. Included in the Agreement is a "Non-Collusive Bidding" affirmation to which the highest bidder is to attest under the penalty of perjury.

# POST-AUCTION TERMS AND CONDITIONS

1. PAYMENT OF BALANCE OF DEPOSIT: Within ten (10) days of the date of the auction, the acknowledged highest bidder must deliver to the Corporation the balance of the Deposit (10% of the bid, less the $2,500 partial deposit) in the form of a bank or certified check payable to the *New York State Canal Corporation*. Cash and/or personal checks will not be accepted. Checks should be remitted via certified mail to: New York State Canal Corporation • 30 South Pearl • Albany, New York 12207; Attention: Mr. David Boshart. Failure to remit the appropriate Deposit balance within the specified time period may result in an immediate rejection of the bid by the Corporation (see Paragraph 3 below).

2. PAYMENT OF APPRAISAL AND SURVEY COSTS: The successful bidder shall be responsible for payment to the Corporation of all survey and appraisal costs relating to the Property. The Corporation's Canal Real Property Application requires the applicant for the Property to bear these costs. If the successful bidder has already paid the Corporation all of these costs, no further costs will be due at Closing. If the successful bidder has not paid these costs, the entire sum will be due at the time of Closing. The survey costs for the Property are Two Thousand Dollars ($2,000.00) and the appraisal costs are Three Thousand Eight Hundred Twenty-Five Dollars ($3,825.00).

3. RIGHT TO REJECT BID RESERVED: To the fullest extent permitted by law, the Corporation reserves the right to: reject any and all bids up until the time that the Agreement has been fully executed and approved (i.e., executed by the Purchaser, the Corporation and the State, and approved by the Attorney General); and to re-advertise for new bids. The basis for such rejection includes, but is not limited to, a finding by the Corporation that any of the certifications made by the bidder in accordance with provisions of New York State Finance Law §§ 139-j and 139-k were intentionally false or intentionally incomplete or that the bidder is non-responsible or has failed to accurately disclose vendor-responsibility information. Upon rejection of any bid(s), the Corporation may also, at its discretion, accept other bids in descending order. If the Corporation exercises its right to reject a bid, the high bidder shall be entitled only to the return of the Deposit (as defined under Paragraph 2(b) of the Agreement) that it has delivered to the Corporation, and the Corporation shall have no further obligations or liabilities. Notwithstanding the foregoing, to the fullest extent permitted by the law, the Corporation reserves the right to retain the Deposit in the event that the bid is rejected for cause.

4. NOTIFICATION OF EXECUTION OF THE AGREEMENT BY THE CORPORATION AND THE STATE AND APPROVAL OF THE AGREEMENT BY THE ATTORNEY GENERAL: Consideration of the highest bid by the Corporation will include, but not be limited to, whether a bidder is deemed to be compliant and/or responsible based in part upon the bidder's completion of the Pre-Registration documents in this Bid Packet. If the Corporation executes the Agreement, the Corporation will notify the highest bidder via certified mail within ten (10) days of such execution and will submit the Agreement to the Attorney General for approval. the Corporation will notify the highest bidder via certified mail within ten (10) days of the Corporation being notified of such approval, and will deliver to the highest bidder a fully executed and approved original of the Agreement.

## BID AND PROPERTY INFORMATION

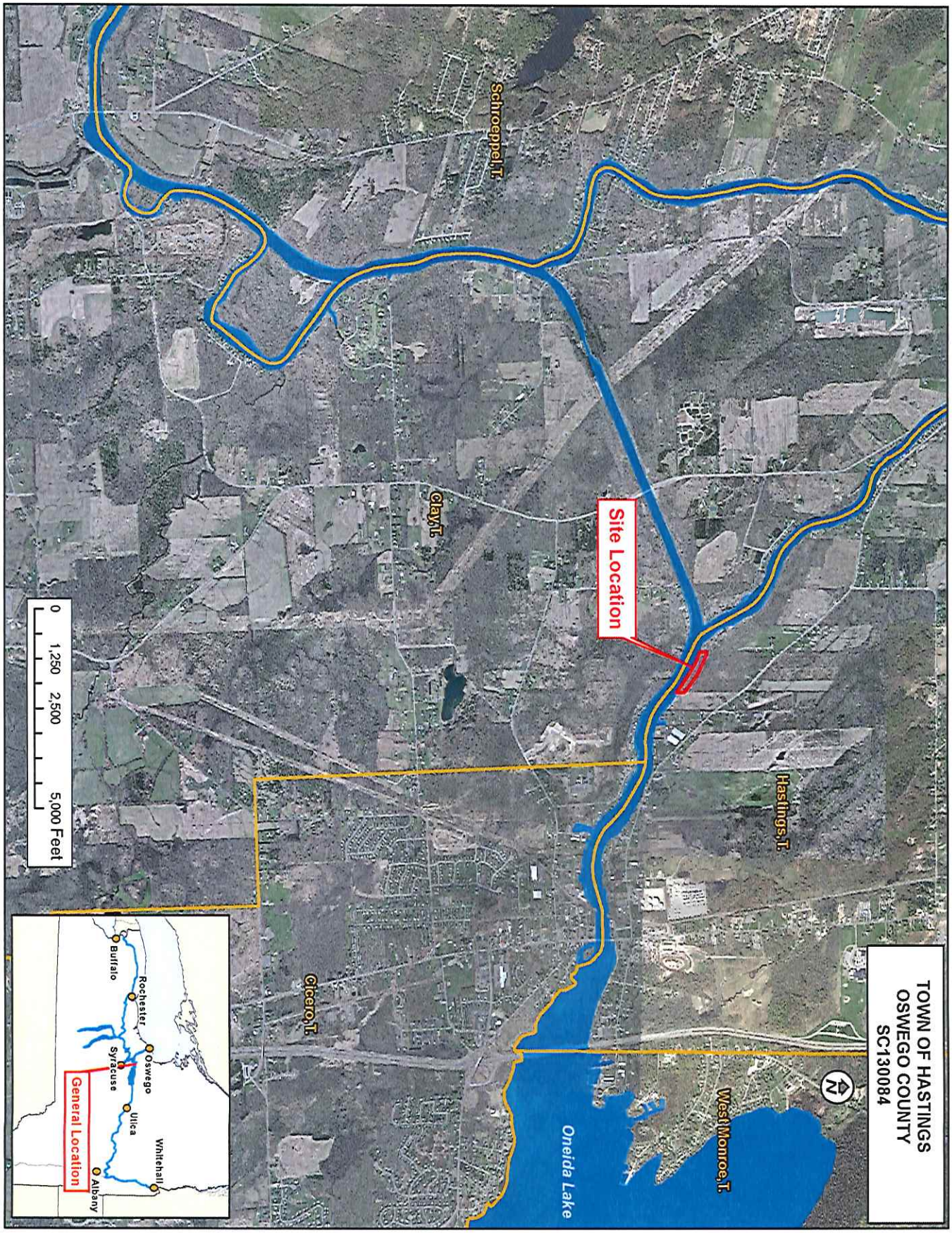
## REAL PROPERTY REFERENCE NO. SC130084

## MINIMUM BID: $25,000

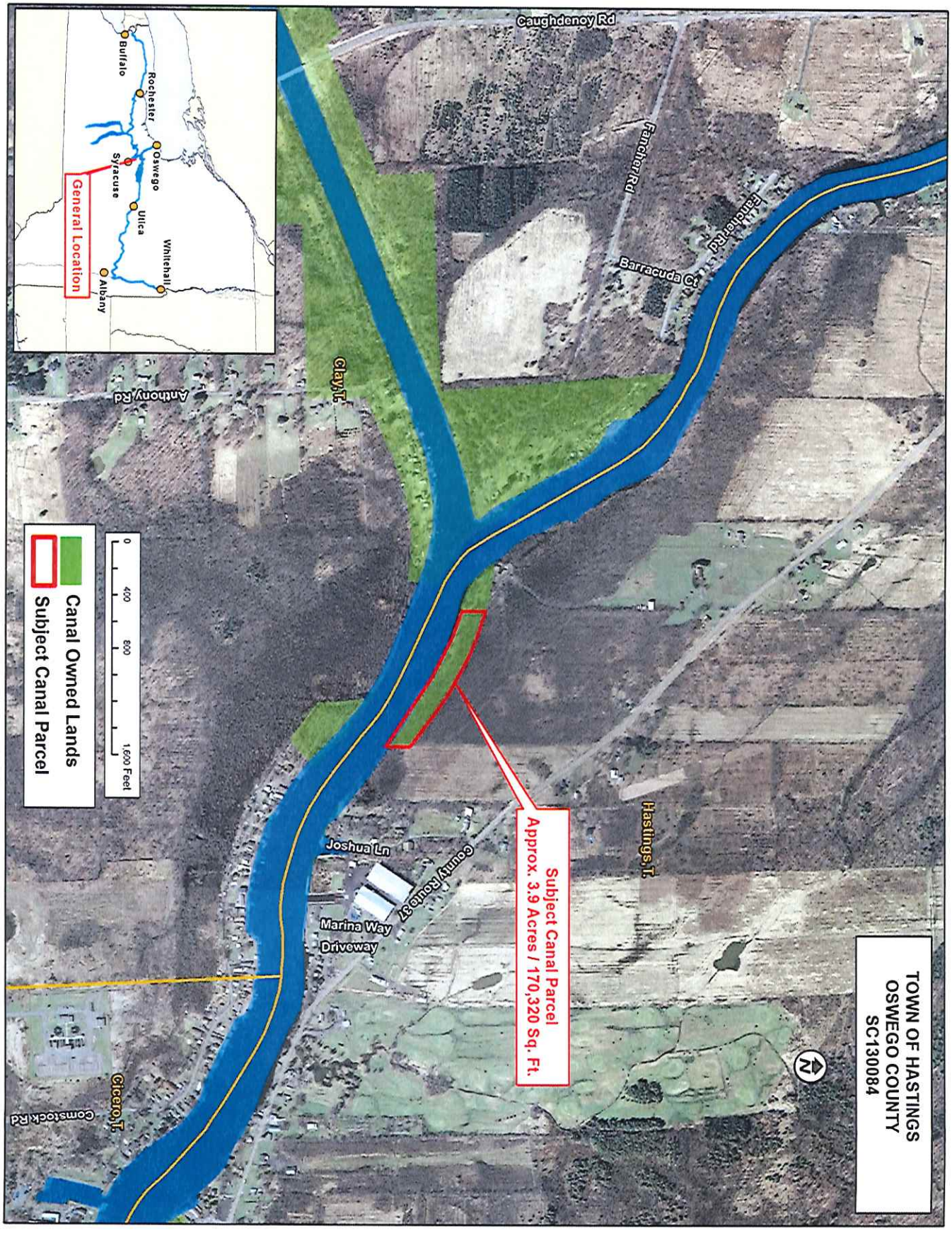
## MINIMUM DEPOSIT DUE AT AUCTION: $2,500

| | |
|---|---|
| LOCATION: | North side of the Oneida River/ Erie Canal, South of 516 County Route 37, west of Route 1 and east of Guilder Road in the Town of Hastings, County of Oswego. |
| PARCEL SIZE: | 3.915± acres; 170,527± square feet |
| DESCRIPTION: | The subject is a vacant elongated rectangular shaped wooded parcel. The parcel has approximately 1,117 feet of frontage on the northern shoreline of the Oneida River/ Erie Canal. The parcel averages approximately 150 feet in width and is generally level. |
| ACCESS: | The parcel is accessible from the Oneida River/ Erie Canal or over privately owned adjoining properties located to the north, west and east. |
| HISTORIC FEATURES: | The Erie Canal is registered on the National Register of Historic Places. |
| ENVIRONMENTAL: | The parcel appears to be located outside of flood zone AE as shown on National Flood Insurance Program Map Number 36075C0656G Effective Date June 18, 2013. Based on a visual inspection, there are no known environmental concerns. |
| ZONING: | The parcel is zoned Waterfront District, surrounding properties are a mix of year round and seasonal residences and vacant land. Please call the Town of Hastings Zoning Department to investigate all zoning and local ordinances prior to bidding. |
| UTILITIES: | There is electric and telephone available along Route 37, however, no utilities are available at the Property |
| TAXES: | The parcel is currently exempt from property and school taxes. For information regarding assessment data, please contact the Town of Hastings Assessor's Office. |
| ENCROACHMENTS: | There are no known encumbrances on the parcel. |
| AS-IS SALE: | The parcel is to be conveyed AS-IS by quit claim deed. Bidders are urged to do their own research and contact the Town of Hastings to determine whether their proposed use of the parcel is feasible. |
| DEED COVENANT(s): | In addition to certain standard covenants as further described in the Sample Agreement within, a covenant, shown as Exhibit 2 in the Sample Agreement, will be included in the Deed, and run with the land, for the New York State Office of Parks, Recreation and Historic Preservation or its successor agency to approve in writing any proposed change in land use of all or part of the property that would result in ground-disturbing activities. |
| RESERVATION: | The State of New York, acting by and through the Canal Corporation will reserve over the parcel a permanent easement to overflow and flood the property. |

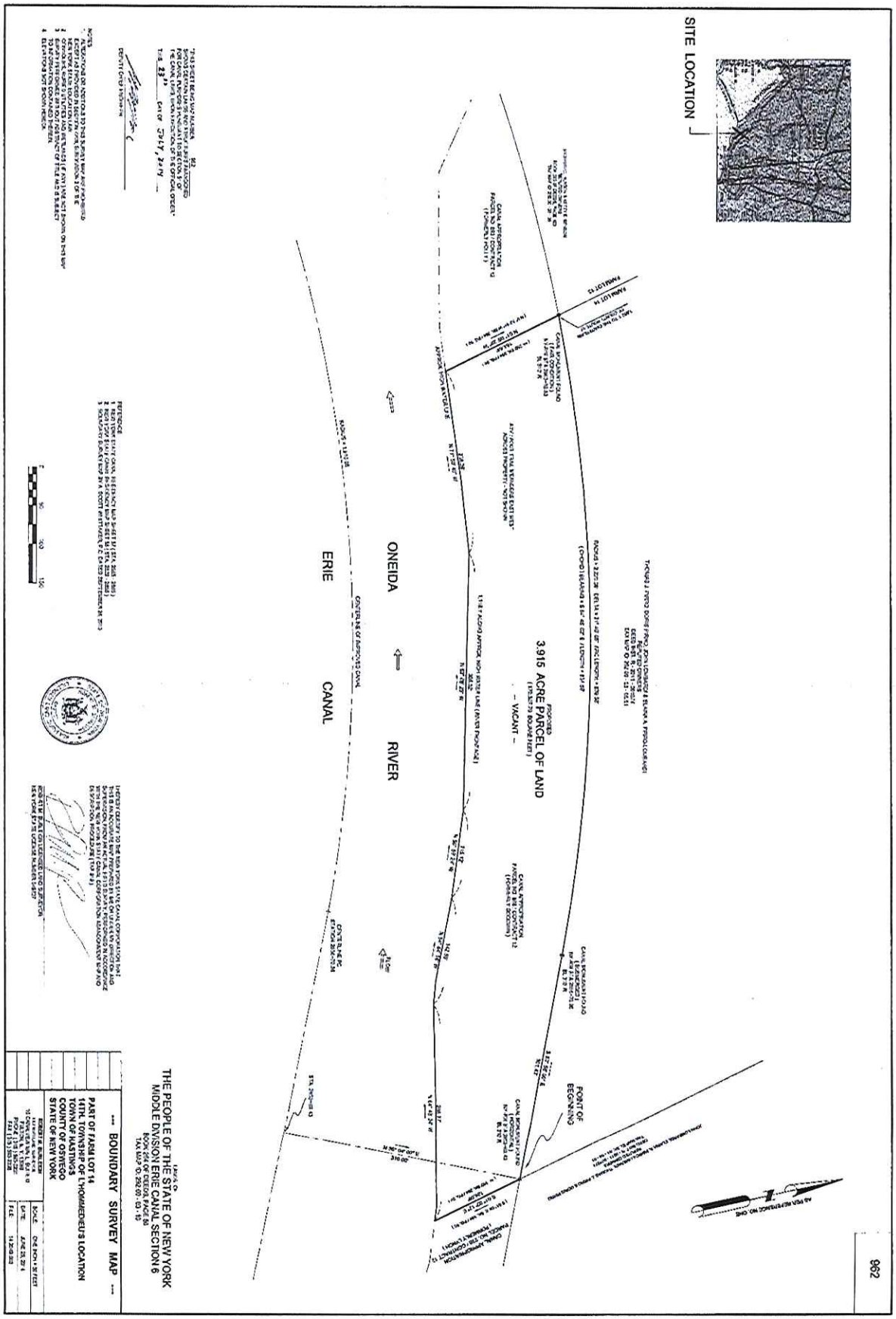
# LOCATION MAP



# SITE MAP


TOWN OF HASTINGS
OSWEGO COUNTY
SC130084
Subject Canal Parcel
Approx. 3.9 Acres / 170,320 Sq. Ft.
Caughdenoy Rd
Francher Rd
Barracuda Ct
Clay, T.
Hastings, T.
Joshua Ln
County Route 37
Marina Way
Driveway
Cicero, T.
Comstock Rd
Anthony Rd
Canal Owned Lands
Subject Canal Parcel
0
400
800
1,600 Feet
General Location
Buffalo
Rochester
Oswego
Syracuse
Utica
Whitehall
Albany

# SURVEY MAP


SITE LOCATION
PROPOSED
3915 ACRE PARCEL OF LAND
(TO BE TO BOUNDARIES)
– VACANT –
ONEIDA
RIVER
ERIE
CANAL
POINT OF BEGINNING
692
--- BOUNDARY SURVEY MAP ---
PART OF FARM LOT 14
14TH TOWNSHIP OF L'HOMMEDIEU'S LOCATION
TOWN OF HASTINGS
COUNTY OF ONONDAGA
STATE OF NEW YORK
THE PEOPLE OF THE STATE OF NEW YORK
MIDDLE DIVISION ERIE CANAL SECTION 6

**NEW YORK STATE CANAL CORPORATION**
**AGREEMENT FOR SALE OF REAL PROPERTY**

***(This is a contract. You may wish to consult with an attorney before signing.)***

This Agreement, made this _____ day of _____, 2017 by and between the New York State Canal Corporation (hereinafter the "Corporation"), a subsidiary of the Power Authority of the State of New York pursuant to §1005-b of the Public Authorities Law, whose principal office (hereinafter "Administrative Headquarters") and mailing address is 30 South Pearl Street, Albany, New York 12201; THE PEOPLE OF THE STATE OF NEW YORK (hereinafter the "State") acting by and through the Corporation and; _____ (hereinafter the "Purchaser"), residing at _____, City/Town/Village of _____, County of _____, New York, _____.

WITNESSETH:

WHEREAS, the State owns the property described in Exhibit 1 attached hereto and made a part hereof (hereinafter the "Property");

WHEREAS, the Property is under the jurisdiction of the Corporation;

WHEREAS, the Purchaser desires to purchase the Property;

WHEREAS, Section 50 of the Canal Law authorizes the Corporation to abandon any portion of barge canal lands, barge canal terminal lands, or old canal lands and appertaining structures constituting the canal system prior to the barge canal improvement, which have or may become no longer necessary or useful as a part of the barge canal system, as an aid to navigation thereon, or for barge canal terminal purposes;

WHEREAS, Section 10 (17) of the Canal Law authorizes the Corporation to cause to be abandoned such canal lands as are no longer necessary or useful for canal purposes;

WHEREAS, Section 51 of the Canal Law requires that a notice of any proposed abandonment be transmitted to the Canal Recreationway Commission (hereinafter the "Commission") and published once each week for three successive weeks in a newspaper published in the municipality or locality wherein such lands are located, or if there is no such newspaper, then in a newspaper published in the county wherein such lands are located;

WHEREAS, such notice has been transmitted to the Commission and published in accordance with the provisions of Section 51 of the Canal Law; and

WHEREAS, the Board constituting the Corporation, pursuant to Resolution No. 633, adopted at Meeting No. CC-208, held on November 7, 2016, found the Property to be no longer useful or necessary as part of the Barge Canal System, as an aid to navigation thereon, or for Barge Canal Terminal purposes, excepting: a permanent easement to overflow and flood the Property; directed the Office of Canal Maintenance and Operations to prepare an Official Order and Map for review and execution by the Executive Director; and authorized the Executive Director of the Corporation or her designee to execute this Agreement on behalf of the Corporation and of the State.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants herein contained, the receipt and sufficiency of which the parties acknowledge, the Purchaser, the Corporation, and the State hereby agree as follows:

1. The Corporation and the State agree to sell and convey, and the Purchaser agrees to purchase, the Property, subject to the reservation of a permanent easement to the Corporation, to overflow and flood the Property, and subject to the other terms and conditions set forth in this Agreement.

2. (a) Purchaser agrees to pay the sum of $_____ ($_____) as the full purchase price (hereinafter the "Purchase Price") for the Property.

(b) Purchaser agrees to pay an earnest-money deposit (hereinafter the "Deposit"), a sum equal to ten percent (10%) of the Purchase Price, as provided in subparagraphs (c) and (d) of this paragraph.

(c) The sum of TWO THOUSAND FIVE HUNDRED and zero dollars ($2,500.00) in the form of a bank or certified check, made payable to the *New York State Canal Corporation*, is hereby accepted by the Corporation simultaneously with the Purchaser's execution of this Agreement as a portion of the Deposit with the understanding that it will be applied as a credit toward the Purchase Price, or, in addition to the monies described in Paragraph 2(d), and, if applicable, Paragraph 4(b), serve as liquidated damages in the event of a default.

(d) The sum of $_____ shall be paid by the Purchaser to the Corporation in the form of a bank or certified check, made payable to the *New York State Canal Corporation*, within ten (10) days of the Purchaser's execution of the Agreement as the balance of the Deposit, with the understanding that it will be applied as a credit toward the Purchase Price or, in addition to the monies described in Paragraph 2(c), and, if applicable, Paragraph 4(b), serve as liquidated damages in the event of a default.

(e) The balance of $_____ shall be paid by the Purchaser to the Corporation in the form of a bank or certified check, made payable to the *New York State Canal Corporation*, upon delivery by the State of the deed to the Purchaser at the time of the transfer of title (hereinafter the "Closing").

(f) The Purchaser is responsible for payment of the Corporation's survey costs and appraisal costs of the Property in the amounts of THREE THOUSAND EIGHT HUNDRED TWENTY FIVE DOLLARS ($3,825.00) and TWO THOUSAND DOLLARS ($2,000.00), respectively. The Purchaser: (i) shall pay to the Corporation, at the Closing, in the form of a bank or certified check made payable to the *New York State Canal Corporation*, the sum of FIVE THOUSAND EIGHT HUNDRED TWENTY FIVE DOLLARS ($5,825.00) for the Corporation's appraisal costs and survey costs; *or* (ii) has already paid the Corporation the sum of FIVE THOUSAND FOUR HUNDRED FORTY SEVEN DOLLARS ($5,825.00) for the Corporation's appraisal costs and survey costs.

**NOTE TO BIDDERS/PURCHASER: The alternative in (f) above that does not apply shall be deleted and initialed at the Auction.**

3. This Agreement shall become binding upon the parties hereto when it has been fully executed (hereinafter the "Execution Date") by the Purchaser, the Corporation, the State, the Attorney General.

4. (a) The Closing under this Agreement is expressly not contingent upon any fact or circumstance not expressly stated herein; including the Purchaser obtaining financing of the purchase price. The Closing shall take place within sixty (60) calendar days of the Execution Date of this Agreement (hereinafter, the "Closing Date"). The Closing shall take place at Administrative Headquarters, unless both the Corporation and the Purchaser agree upon an alternate location

or procedure for the Closing. TIME SHALL BE OF THE ESSENCE as to the performance by the Purchaser of each and every one of its obligations under this Agreement. If the Purchaser defaults or wrongfully fails to take title on the Closing Date, the Corporation and the State shall have the right to: (i) bring an action for specific performance or other equitable relief, in which case the Purchaser shall be liable for all costs incurred by the Corporation and the State incidental to such action; or (ii) consider the Agreement breached and retain the Deposit as liquidated damages, in which case the Corporation and the State shall not have any further rights hereunder against the Purchaser, and the Purchaser shall not have any further rights against the Corporation or the State.

(b) The Corporation may, at its discretion, defer the Closing to another date (referred to hereinafter as the "Extended Closing Date") without requiring approval by the Purchaser. Upon request by the Purchaser, the Corporation may, at its discretion, grant an Extended Closing Date. If granted, the Corporation may require from the Purchaser, interest on the moneys described in Paragraph 2(e) at a rate of seven and one half percent (7.5%) per annum from the Closing Date through the Extended Closing Date, and/or an additional deposit. Notwithstanding anything to the contrary contained in this Agreement, if an Extended Closing Date is invoked by the Corporation or if the Corporation consents to a request by the Purchaser for an Extended Closing Date, and the Purchaser defaults or wrongfully fails to take title on such Extended Closing Date, the Corporation and the State shall have the right to: (i) bring an action for specific performance or other equitable relief, in which case the Purchaser shall be liable for all costs incurred by the Corporation and the State incidental to such action; or (ii) consider the Agreement breached and retain the Deposit, and any additional deposit and/or interest paid to procure the Extended Closing Date, as liquidated damages, in which case the Corporation and the State shall not have any further rights hereunder against the Purchaser, and the Purchaser shall not have any further rights against the Corporation or the State.

5. The State shall convey the Property by quitclaim deed (hereinafter the "Deed") prepared by the New York State Attorney General (hereinafter the "Attorney General"). The Deed shall: (i) be generally consistent with the description contained in Exhibit 1 of this Agreement; (ii) include the covenants listed in Paragraphs 19 and 20 below; and (iii) include a reservation of a permanent easement to the State, acting by and through the Corporation, to overflow and flood the Property. At the sole discretion of the Corporation, the Deed may also contain language consistent with Paragraphs 6 and 14 of this Agreement. The Deed and all other title documents must be approved by the Attorney General as to form, manner of execution, and legal sufficiency.

6. The State shall convey the Property, and the Purchaser is accepting title to the Property, in its existing condition "AS-IS" as to title and physical condition; including, but not limited to, environmental condition and the condition of any structures thereon, as of the Closing Date or Extended Closing Date, whichever is applicable. No representation is made by the State or the Corporation as to future permitted use, occupancy, zoning, condition of title, or physical condition of the Property, including, but not limited to, environmental condition and the condition of any structures thereon. Further, the Purchaser understands and agrees that nothing in this Agreement shall be construed to mean that the State or the Corporation is making any representation or warranty with regard to title or physical condition or that conveyance of the Property is other than "AS-IS."

7. The risk of loss or damage, by fire or otherwise, between the Execution Date of this Agreement and the Closing Date or Extended Closing Date, whichever is applicable, shall be governed by §5-1311 of the General Obligations Law.

8. In the event that the State is unable to convey title to the Purchaser, the State's and the Corporation's liability shall be limited to the return of the Deposit and any additional deposit and/or interest paid in accordance with the provisions of Paragraph 4(b) herein, and the sale shall be considered cancelled.

9. Prior to the Closing, the Purchaser shall not enter upon the Property without the prior written permission of the Corporation.

10. The Purchaser covenants that: (i) within ten (10) days of the delivery of the Deed by the Corporation, the Purchaser shall record such Deed and the Covenant, defined in Paragraph 20 below in the Oswego County Clerk's Office; (ii) if the Purchaser authorized an attorney-in-fact to act under a Power-of-Attorney in connection with the Property, the Purchaser shall record such Power-of-Attorney in the Oswego County Clerk's Office concurrently with the recording of said Deed and Covenant; and (iii) the Purchaser shall forward to the Corporation, via certified mail, one (1) certified copy of the recorded Deed and one (1) certified copy of the recorded Power-of-Attorney, if applicable as set forth in (ii), within ten (10) days of its receipt thereof. These covenants shall survive delivery of the Deed.

11. The Purchaser shall pay all charges, fees, and/or taxes required to consummate the Closing; including, but not limited to, those associated with: (a) recording the Deed and obtaining a certified copy of the same relative to the provisions of Paragraph 10 herein; (b) filing the Real Estate Transfer Tax Return and Credit Line Mortgage Certificate; and (c) filing the New York State Department of Taxation and Real Property Transfer Report.

12. Neither the State nor the Corporation shall be liable for payment of any brokerage commissions.

13. This Agreement shall not be assigned without the written permission of the State and of the Corporation.

14. The Purchaser understands that, as an AS-IS sale, the Property may be burdened by the following, the existence of any of which shall not be just cause for failing to complete this transaction:

    (a) covenants, conditions, easements, restrictions, reservations, and agreements affecting the Property;
    (b) any state of facts an inspection and/or an accurate survey of the property may show and/or disclose;
    (c) laws and governmental regulations that affect the use and occupancy of the Property;
    (d) the rights of tenants and persons in possession, if any;
    (e) any and all encroachments;
    (f) utility-company rights and easements to maintain poles, wires, lines, cables, conduits, pipes, boxes, and other fixtures and facilities in, over, under, and/or upon the Property;

    The foregoing list is intended to be merely illustrative of what may burden the Property, and should not be interpreted to be comprehensive.

15. The terms and conditions of this Agreement constitute the entire agreement made between the parties, and cannot be changed orally. Nothing contained in this Agreement is intended to create any rights in any party not a party to this Agreement.

16. The following name and address shall appear on the Deed as the grantee:

Name: _____

Address: _____

17. It is expressly agreed that the Corporation and the State make no representations or warranties that the Property complies with federal, state, or local governmental laws or regulations applicable to the Property. The Purchaser expressly acknowledges that the Property is shown on a map entitled "BARGE CANAL, STATE OF NEW YORK, MAP SHOWING LOCATION OF CHANNEL, STRUCTURES, APPROPRIATED LANDS AND TERMINALS OF THE ERIE, CHAMPLAIN, OSWEGO AND CAYUGA SENECA CANAL, AS IMPROVED UNDER CHAPTER 147, LAWS OF 1903, CHAPTER 391, LAWS OF 1909; AND CHAPTER 746, LAWS OF 1911; AND AMENDATORY LAWS, MIDDLE DIVISION, ERIE CANAL, SECTION 6 STA. 2855 TO STA. 2885" Map Sheet No. 57, dated November 21, 1924; and, also shown on Abandonment Map No. 962, and both of these maps are on file at the New York State Canal Corporation, 30 South Pearl Street, Albany, NY 12207. The Purchaser expressly acknowledges that the Property may also be shown on publicly filed tax maps and that the Purchaser shall be responsible for effecting any change(s) that may be desired or required, including, but not limited to, taking all actions that may be necessary to comply with applicable local zoning ordinances and/or code. The Purchaser further acknowledges that the State and the Corporation shall have no responsibility for effecting any such change(s) and/or taking any such action(s).

18. The Purchaser affirms, under penalty of perjury, that the bid purchase price was made independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such bid purchase price, with any other bidder or with any competitor. The Purchaser further affirms that no attempt was made to induce any other party to bid or not to bid for the purpose of restricting competition.

19. (a) The Purchaser covenants that he/she/it shall not sue the State of New York, the Power Authority of the State of New York, and the New York State Canal Corporation (hereinafter the "State Entities") for, and shall forever release the State Entities from, any and all claims, damages, liabilities, costs and expenses occasioned by or related to: percolation; changes in water elevation or overflow from the Erie Canal; flooding by the waters of the State canal and waterways; and any surface water or other waters accustomed to flow to, upon, or over the Property. This covenant shall not be construed in any way to limit the rights and remedies of the State and the Corporation under the permanent easement reserved to the State, acting by and through the Corporation, to overflow and flood the Property.

(b) The Purchaser covenants that it shall have no right to deposit or place fill material on or around the boundary of any portion of the Property that continues to abut, or is contiguous with, any currently existing or remaining canal property without prior notice to, and approval by, the Corporation.

The covenants contained in 19(a) and 19(b) shall: (i) survive delivery of the Deed; (ii) be included in such Deed; and (iii) run with the land and bind the successors and assigns of the Purchaser.

20. The Purchaser understands and agrees that: the sale of the Property has been reviewed under Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law by the New York State Office of Parks, Recreation and Historic Preservation (hereinafter the "OPRHP"); and OPRHP conditioned its issuance of a No Adverse Effect opinion letter upon the condition that the Purchaser shall execute and record the Covenant attached hereto as Exhibit 2. Accordingly, the Purchaser covenants, which agreement shall survive delivery of the Deed, to: (i) record the Deed in the Oswego County Clerk's Office within ten (10) days

following delivery of the Deed to the Purchaser; (ii) execute and record the Covenant attached hereto as Exhibit 2 at the same time it records the Deed; and; (iii) within ten (10) days of recording the Deed and Covenant, send a certified copy of such recorded Deed and a certified copy of such recorded Covenant to OPRHP at New York State Office of Parks, Recreation and Historic Preservation, Peebles Island, P.O. Box 189, Waterford, NY 12188; and to the Corporation at Office of Real Property Management, New York State Canal Corporation, 200 Southern Boulevard, Albany, New York 12184-0189. Without limiting the Corporation's rights and remedies hereunder, the Purchaser expressly agrees that if it fails to carry out its obligations under this Paragraph 20, OPRHP shall also have the right to bring an action to compel the Purchaser to execute and record the Deed and the covenant. Further, the Corporation reserves the right to modify Exhibit 2 prior to delivery of the Deed, provided however, such modified Covenant shall be substantially in the form attached as Exhibit 2.

21. This Agreement shall inure to the benefit of, and bind, the distributees, legal representatives, and successors of the parties hereto.

22. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement shall not be affected, but shall remain binding and in full force and effect as against all parties hereto.

22. The Purchaser agrees to comply with, and be bound by, Appendix A, the Standard Clauses for all New York State Canal Corporation Contracts, which Clauses are attached hereto as Exhibit 3 and are made a part of this Agreement.

23. The State and the Corporation reserve the right to terminate this Agreement if it is found that the certification filed by the Purchaser in accordance with New York State Finance Law Section 139-j and Section 139-k was intentionally false or intentionally incomplete.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

_____

PURCHASER (Print Name)

_____

Social Security No./Federal Tax Identification Number

FOR INDIVIDUAL PURCHASER SIGNING ON HIS/HER OWN BEHALF

_____

(Signature)

FOR DULY AUTHORIZED REPRESENTATIVE SIGNING ON BEHALF OF THE PURCHASER

BY: _____

(Print Name)

_____

(Print Title)

_____

(Signature)

**NEW YORK STATE CANAL CORPORATION**

BY: _____
VICE PRESIDENT -ENTERPRISE SHARED SERVICES

**THE PEOPLE OF THE STATE OF NEW YORK ACTING BY AND THROUGH THE NEW YORK STATE CANAL CORPORATION**

BY: _____
VICE PRESIDENT – ENTERPRISE SHARED SERVICES

**APPROVED AS TO FORM ONLY**

BY: _____
GENERAL COUNSEL

**APPROVED AS TO FORM AND MANNER OF EXECUTION**

**NEW YORK STATE ATTORNEY GENERAL**

BY: _____ DATE: _____
(Name of Signatory)

_____
(Signature)

STATE OF NEW YORK

}SS:

COUNTY OF _____

On the _____ day of _____ in the year 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or person on behalf of which the individual acted, executed the instrument.

_____

Notary Public – State of New York

STATE OF NEW YORK

}SS:

COUNTY OF ALBANY

On the _____ day of _____ in the year 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared RUTH COLON, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same in her capacity as the VICE PRESIDENT- ENTERPRISE SHARED SERVICES of the New York State Canal Corporation, and that by her signature on the instrument, the individual, or person on behalf of the New York State Canal Corporation, executed the instrument.

_____

Notary Public – State of New York

STATE OF NEW YORK

}SS:

COUNTY OF ALBANY

On the _____ day of _____ in the year 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared RUTH COLON, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same in her capacity as the VICE PRESIDENT – ENTERPRISE SHARED SERVICES of the New York State Canal Corporation, and that by her signature on the instrument, the individual, acting for and on behalf of the New York State Canal Corporation and on behalf of The People of the State of New York, executed the instrument.

_____

Notary Public – State of New York

EXHIBIT 1 - (PROPERTY DESCRIPTION)

ALL THAT PARCEL of New York State Barge Canal Lands situated in Lot 14 of the 14th. Township of L'Hommedieu's location, Town of Hastings, County of Oswego and State of New York, being more particularly described as follows:

BEGINNING at a point situate on the northerly boundary line of the New York State Barge Canal at a point 310' on a bearing of N 36° 04' 00" E from the centerline of the Erie Canal station 2853+69.43; thence, South 01° 02' 12" East, a distance of 124.09' to a point in the northerly high water line of the Erie Canal (Oneida River); thence, westerly along the northerly high water line of the Erie Canal ( Oneida River ) the following courses: 1) North 64° 48' 24" West, 286.77'; 2) North 54° 44' 14" West, 142.56'; 3) North 56° 59' 24" West, 115.12'; 4) North 63° 08' 23" West, 335.02'; 5) North 71° 50' 40" West, 238.28' having a total distance of 1,1118.1' along the high water line and having a closing course of North 63° 43' 07" West, 1,112.75' to a point in the westerly line of Farm Lot 14; thence, North 01° 05' 29" West along the westerly line of Farm Lot 14, a distance of 164.64' to a point in the northerly boundary line of the New York State Barge Canal; Thence, easterly along the northerly boundary line of the New York State Barge Canal and along a tangent curve to the right having a radius of 2,220.08', an arc length of 839.58' and chord bearing and distance of South 64° 46' 02", 834.59' East to a point; thence, South 53° 56' 00" East continuing along the northerly boundary line of the New York State Barge Canal, a distance of 301.43' to the point and place of beginning containing 3.915 acres of land.

All bearings referred to the True Meridian as established for the Canal parcel as shown on Barge Canal Residency map page 57 dated November 21, 1924.

EXHIBIT 2

In consideration of the conveyance by quitclaim deed of certain real property, located in the Town of Hastings, County of Oswego, State of New York, bounded and described as follows:

ALL THAT PARCEL of New York State Barge Canal Lands situated in Lot 14 of the 14th. Township of L'Hommedieu's location, Town of Hastings, County of Oswego and State of New York, being more particularly described as follows:

BEGINNING at a point situate on the northerly boundary line of the New York State Barge Canal at a point 310' on a bearing of N 36° 04' 00" E from the centerline of the Erie Canal station 2853+69.43; thence, South 01° 02' 12" East, a distance of 124.09' to a point in the northerly high water line of the Erie Canal (Oneida River ); thence, westerly along the northerly high water line of the Erie Canal ( Oneida River ) the following courses: 1) North 64° 48' 24" West, 286.77'; 2) North 54° 44' 14" West, 142.56'; 3) North 56° 59' 24" West, 115.12'; 4) North 63° 08' 23" West, 335.02'; 5) North 71° 50' 40" West, 238.28' having a total distance of 1,1118.1' along the high water line and having a closing course of North 63° 43' 07" West, 1,112.75' to a point in the westerly line of Farm Lot 14; thence, North 01° 05' 29" West along the westerly line of Farm Lot 14, a distance of 164.64' to a point in the northerly boundary line of the New York State Barge Canal; Thence, easterly along the northerly boundary line of the New York State Barge Canal and along a tangent curve to the right having a radius of 2,220.08', an arc length of 839.58' and chord bearing and distance of South 64° 46' 02", 834.59' East to a point; thence, South 53° 56' 00" East continuing along the northerly boundary line of the New York State Barge Canal, a distance of 301.43' to the point and place of beginning containing 3.915 acres of land.

All bearings referred to the True Meridian as established for the Canal parcel as shown on Barge Canal Residency map page 57 dated November 21, 1924.

The Grantee hereby covenants and agrees on behalf of itself and its successors and assigns that the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) or its successor agency shall approve in writing any proposed change in land use of all or part of the property described herein that would result in ground-disturbing activities.

This covenant is binding upon the Grantee, its successors and assigns in perpetuity, and shall be inserted verbatim or by express reference in any deed or other legal instrument by which it divests itself of either the fee simple title or any other lesser estate in the property described herein or any part thereof. The failure of OPRHP to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time.

_____

By:

Title:

STATE OF NEW YORK )

) SS:

COUNTY OF )

On this _____ day of _____, in the year 2017, before me, the undersigned a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the foregoing instrument and acknowledged to me that he/she/it executed the same in his/her/its capacity, and that by his/her/its signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

_____

Notary Public - State of New York (signature)

[ ] Affix Stamp

# EXHIBIT 3- APPENDIX A

Standard Clauses For
New York State Canal Corporation Procurement Contracts

The parties to the attached contract, license, lease, amendment or other agreement of any kind ("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 and its agents, successors and assigns, other than the Power Authority of the State of New York ("Authority") or Canal Corporation ("Corporation"), whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. **NON-ASSIGNMENT CLAUSE.** This contract may not be assigned by the Contractor nor may its right, title or interest therein be assigned, transferred, conveyed, subcontracted, sublet or otherwise disposed of without the previous consent, in writing, of the Authority/Corporation and any attempts to assign the contract without the Authority's/Corporation's written consent are null and void.

2. **COMPTROLLER APPROVAL.** Unless otherwise provided by resolution of the Authority or Corporation Board, if this contract involves the expenditure of funds for goods or services in excess of $50,000, or the expenditure of funds for any other purpose in excess of $15,000, or if, by this contract, the Authority/Corporation agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $10,000, this contract shall not be valid, effective or binding upon the Authority/Corporation until it has been approved by the State Comptroller and filed in his office.

3. **WORKERS' COMPENSATION AND DISABILITY 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 State Workers' Compensation Law. If employees will be working on, near or over navigable waters, a U.S. Longshore and Harbor Workers' Compensation Act endorsement must be included.

4. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the State Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, military status, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with State Labor Law §220-e, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, disability, sex or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in State Labor Law §230, then, in accordance with §239 thereof, the 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. The Contractor is subject to fines of $50 per person per day for any violation of State Labor Law §§220-e or 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

5. **WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the State Labor Law or a building service contract covered by Article 9 thereof, neither the 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 State Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the 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 State Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the New York State Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with subdivision 3-a of Section 220 of the New York State Labor Law shall be a condition precedent to payment by the Authority/Corporation of any Authority/Corporation approved sums due and owing for work done on the project.

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

7. **INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with State Labor Law §220-f, 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. §§2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of the 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/Corporation within five (5) business days of such conviction, determination or disposition of appeal.

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

9. **RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (collectively, "Records") for a period of six (6) years (or any other longer period required by law) following final payment or the termination of this contract, whichever is later, and any extensions thereto. The Authority/Corporation, State Comptroller, State Attorney General and any other person or entity authorized to conduct an examination shall have access to the Records during normal business hours at an office of the Contractor within New York State, or, if no such office is available, at a mutually agreeable and reasonable venue within the State, during the contract term, any extensions thereof and said six (6) year period thereafter, for purposes of inspection, auditing and copying. As used in this clause, "termination of this contract" 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/Corporation will take reasonable steps to protect from public disclosure those Records which are exempt from disclosure under State Public Officers Law §87 ("Statute") provided that: (i) the Contractor shall timely inform an appropriate Authority/Corporation official, in writing, that said records should not be disclosed; (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/Corporation's right to discovery in any pending or future litigation.

10. **IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** 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 the Authority/Corporation must include the payee's identification number, 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 such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

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 State Tax Law §5. Disclosure of this information by the seller or lessor to the Authority/Corporation 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 State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

The above personal information is maintained at the New York State Canal Corporation, 30 South Pearl Street, Albany, New York 12207.

11. **EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.** In accordance with State Executive Law §312, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000, whereby the Authority/Corporation 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 Authority/Corporation; or (ii) a written agreement in excess of $100,000 whereby the Authority/Corporation is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition,

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

(a) 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 shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on Authority/Corporation contracts 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. As used in this clause, "affirmative action" shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, lay-off or termination, and rates of pay or other forms of compensation.

(b) At the request of the Authority/Corporation, 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 such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

(c) The Contractor shall state, in all solicitations or advertisements for employees, that in the performance of this 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.

The Contractor shall include the provisions of (a), (b) and (c) above in every subcontract over $25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon except where such work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The Authority/Corporation will consider compliance by a Contractor or its subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The Authority/Corporation shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such Federal law, and if such duplication or conflict exists, the Authority/Corporation may waive the applicability of Section 312 of the Executive Law to the extent of such duplication or conflict. The Contractor shall comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining thereto.

12. **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 Appendix A, the terms of this Appendix A shall control.

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

14. **LATE PAYMENT.** Timeliness of payment and any interest to be paid to the Contractor for late payment shall be governed by State Public Authorities Law §2880 and 21 NYCRR Part 109.

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

16. **SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules, the Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon the Contractor's actual receipt of process or upon the Authority's/Corporation's receipt of the return thereof by the United States Postal Service as refused or undeliverable. The Contractor must promptly notify the Authority/Corporation, in writing, of each and every change of address to which service of process can be made. Service by the Authority/Corporation to the last known address shall be sufficient. The Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

17. **PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract 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 Authority/Corporation.

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 State Finance Law §165. Any such use must meet with the

approval of the Authority/Corporation; 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 Authority/Corporation.

18. **MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in State Finance Law §165), and shall permit independent monitoring of compliance with such principles.

19. **OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:
NYS Department of Economic Development
Division for Small Business
30 South Pearl Street – 7th Floor
Albany, NY 12245
Phone:(518)292-
5220

http://www.esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:
NYS Department of Economic Development Minority and Women's Business Development Division
30 South Pearl Street – 2nd Floor
Albany, NY 12245
Phone: (518) 292-5250
Fax: (518)292-5803
http://www.esd.ny.gov

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

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

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

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

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

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

21. **NON-PUBLIC PERSONAL INFORMATION.** The Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). In addition to any relief or damages that may be imposed pursuant to the provisions of this Act, the Contractor shall be liable for the costs imposed upon the Authority which are associated with breach of the Act if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of the Contractor's agents, officers, employees or subcontractors.

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

23. **NO WAIVER OF PROVISIONS.** The Authority's/Corporation's failure to exercise or delay in exercising any right or remedy under this contract shall not constitute a waiver of such right or remedy or any other right or remedy set forth therein. No waiver by the Authority/Corporation of any right or remedy under this contract shall be effective unless made in a writing duly executed by an authorized officer of the Authority/Corporation, and such waiver shall be limited to the specific instance so written and shall not constitute a waiver of such right or remedy in the future or of any other right or remedy under this contract.

24. **ENTIRE AGREEMENT**. This contract, together with this Appendix A and any other appendices, attachments, schedules or exhibits, 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 thereto.

# BIDDER PRE-REGISTRATION FORM

## AUCTION OF REAL PROPERTY REFERENCE NO. SC130084
## NEW YORK STATE CANAL CORPORATION

This Bidder Pre-registration Form must be completed by the bidder and received by the Corporation no later than 1:00 p.m. August 4, 2017. Included with the submission of this form must be the completed Bid Envelope containing the completed Bid Form. **Note:** The Bidder Pre-registration Form and attendant forms (listed as items c and e in Paragraph 2(a) on page **3** hereof) must not be placed inside the Bid Envelope; they must be placed, along with the Bid Envelope, inside the separate Return Envelope.

By submission of its bid, the bidder, and, if applicable, the duly authorized agent signing on behalf of the bidder, hereby affirm(s) and attest(s), under penalty of perjury, that the amount of the bid was arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such bid, with any other bidder or with any competitor; and that it has not made, nor shall make, any attempt to induce any other party to bid or not to bid for the purpose of restricting competition. Further, if the bidder's duly authorized Agent is executing this Bidder Pre-Registration Form, such agent hereby affirms and attests that he/she has been duly appointed by such bidder to the position entitled hereinbelow, and that, in such capacity, is duly authorized to act on behalf of such bidder and to contractually bind the same.

**PLEASE TYPE OR PRINT CLEARLY**

BIDDER IS (check one):

☐ AN INDIVIDUAL ☐ A BUSINESS ORGANIZATION

(The information you provide below should correspond with the box that you check.)

BIDDER (state full name of individual and SSN#; or; if a business organization, exact name and form thereof and Employer Identification Number(s)):

NAME: _____ SSN/EIN: _____

STREET ADDRESS/P.O. BOX:

_____

| CITY/STATE/ZIP CODE: | TELEPHONE NO. (with area code): |
|---|---|
| _____ | (  ) _____ |

DULY AUTHORIZED AGENT, IF APPLICABLE (state exact name and title, and, if applicable, attach hereto any and all documentation required under Section 3 [Bidding By Agent] of the Auction Bid Packet):

_____

SIGNATURE OF BIDDER OR DULY AUTHORIZED REPRESENTATIVE:

_____

| FOR CORPORATION USE ONLY |
|---|
| DATE PRE-REGISTERED/BID RECEIVED: ___/___/___ |
| PRE-REGISTERED BY: _____ |
| BIDDER PRESENT AND I.D. VERIFIED: _____ |
| DEPOSIT CHECK VERIFIED: _____ |
| BIDDER IDENTIFICATION NO. ASSIGNED: _____ |

# BID FORM

## AUCTION OF REAL PROPERTY REFERENCE NO. SC130084

## NEW YORK STATE CANAL CORPORATION

This Bid Form must be completed by the bidder or its duly authorized Agent, and received by the Canal Corporation in the sealed Bid Envelope NO LATER THAN 1 PM August 4, 2017. Only this Bid Form is to be placed in the Bid Envelope; no other document(s) should be included inside the Bid Envelope. The sealed Bid Envelope must then be placed in the separate Return Envelope, along with the completed Bidder-Pre-Registration Form and attendant forms (listed as c and e in Paragraph 2(a) of "Pre-Auction Terms, Conditions and Information" of this Bid Package), and submitted to the Corporation.

**PLEASE TYPE OR PRINT LEGIBLY**

| |
|---|
| BIDDER (must match pre-registration form exactly):<br><br>_____ |
| DULY AUTHORIZED AGENT, IF APPLICABLE (must match pre-registration form exactly):<br><br>NAME: _____ TITLE: _____ |
| SIGNATURE OF BIDDER OR DULY AUTHORIZED AGENT<br><br>_____ |
| AMOUNT OF BID:<br><br>$_____ |

| FOR CORPORATION USE ONLY |
|---|
| DATE BID OPENED: ____/____/____ |
| BID OPENED BY: _____ |
| BID INFO. AND PRE-REGISTRATION MATCH: _____ |
| BIDDER IDENTIFICATION NO. ASSIGNED: _____ |

ATTACHMENT 1

# BIDDER/CONTRACTOR COMPLIANCE WITH STATE FINANCE LAW §§139-J AND 139-K PROVIDING FOR CERTAIN PROCUREMENT DISCLOSURES

## I. Disclosure of Persons or Organizations

This bid document, and any resulting contract, is subject to the provisions of New York State Finance Law §§ 139-j and 139-k providing for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions.

The State Finance Law requires the Authority/Canal Corporation ("Corporation") to obtain identifying information on every individual or entity, or any employee, agent or consultant or person acting on behalf of such individual or entity that contacts the Authority/Corporation where a reasonable person would infer that the communication was intended to influence the Authority/Corporation procurement during the Restricted Period. The "Restricted Period" refers to the period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from bidders intending to result in a procurement contract and ending with the final contract award. The Authority/Corporation is also obligated to collect information on whether such person or organization has a financial interest in the procurement.

Thereafter, the State Finance Law also requires the Authority/Corporation to obtain such identifying information on every person or organization subsequently retained, employed or designated by or on behalf of the contractor to attempt to influence the procurement process. A covered agency or authority shall ensure that a contractor informs such agency or authority of persons or organizations subsequently retained, employed or designated by or on behalf of the contractor before the agency or authority is contacted.

In order to comply with these requirements, the bidder/contractor shall provide the Authority/Corporation, as part of its proposal, with the names, addresses and other

pertinent information as shown on the attached Form "J-1", of all employees, outside firms, or other entities retained, employed, or designated by or on behalf of the contractor to attempt to influence the procurement process including, but not limited to, negotiation of any contract arising from the bid solicitation.

## II. Bidder/Contractor Disclosure of Prior Non-Responsibility Determinations

The State Finance Law requires the Authority/Corporation to make a determination of responsibility of the proposed awardee for a procurement contract. It also mandates consideration of whether a contractor has intentionally provided false or incomplete information under such provisions within the last five years, and whether a contractor has failed to timely disclose accurate and complete information or otherwise cooperate in the implementation of such provisions.

A failure to timely disclose such information shall be considered in the Authority/Corporation's determination of responsibility of the bidder/contractor.

In order to assess this information, bidder/contractor shall complete the attached form "J-2".

## III. Bidder/Contractor Certification of Compliance

The State Finance Law requires that every procurement contract subject to its provisions contain a certification that all information provided to the Authority/Corporation, as required by this Appendix J, is complete, true and accurate.

A procurement contract may be terminated upon a finding that an awardee intentionally provided false or incomplete information to the Authority/Corporation as required by this Appendix J.

Bidder/Contractor shall complete the attached Form "J-3".

# BIDDER/CONTRACTOR DISCLOSURE OF CONTACTS FORM

**Procurement ID Number (RFP or Q No.:)** _____

**Bidder/Contractor Name:** _____

**Address:** _____ **City:** _____ **State:** _____ **Zip Code:** _____

**Person submitting this form:**
**Name:** _____

**Title:** _____ **Telephone No.:** _____

**(A) Bidder/Contractor Personnel** (*Include company officers, sales or marketing personnel, engineers, lawyers, insurance specialists and other personnel*)

| | Name | Location | Title | Telephone No. | Financial Interest in the Procurement? |
|---|---|---|---|---|---|
| 1. | | | | | ☐ Yes ☐ No |
| 2. | | | | | ☐ Yes ☐ No |
| 3. | | | | | ☐ Yes ☐ No |
| 4. | | | | | ☐ Yes ☐ No |
| 5. | | | | | ☐ Yes ☐ No |
| 6. | | | | | ☐ Yes ☐ No |
| 7. | | | | | ☐ Yes ☐ No |
| 8. | | | | | ☐ Yes ☐ No |
| 9. | | | | | ☐ Yes ☐ No |
| 10. | | | | | ☐ Yes ☐ No |

## BIDDER/CONTRACTOR DISCLOSURE OF CONTACTS FORM

**Procurement ID Number (RFP or Q No.:)** _____

**Bidder/Contractor Name:** _____

**Address:** _____ **City:** _____ **State:** _____ **Zip Code:** _____

**(B) Outside Person or Organization**

| | Name and Company | Address | Title | Telephone No. | Financial Interest in the Procurement? |
|---|---|---|---|---|---|
| 1. | | | | | ☐ Yes ☐ No |
| 2. | | | | | ☐ Yes ☐ No |
| 3. | | | | | ☐ Yes ☐ No |
| 4. | | | | | ☐ Yes ☐ No |
| 5. | | | | | ☐ Yes ☐ No |
| 6. | | | | | ☐ Yes ☐ No |
| 7. | | | | | ☐ Yes ☐ No |
| 8. | | | | | ☐ Yes ☐ No |
| 9. | | | | | ☐ Yes ☐ No |
| 10. | | | | | ☐ Yes ☐ No |

## Contractor Disclosure of Prior Non-Responsibility Determinations

**Bidder/Contractor Name:** _____

**Address:** _____ **City:** _____ **State:** _____ **Zip Code:** _____

**Person submitting this form:**
**Name:** _____

**Title:** _____ **Telephone No.:** _____

**Has any covered agency or authority made a finding of non-responsibility regarding the Contractor in the last five years?**

☐ **No** ☐ **Yes**

**If yes, was the basis for the finding of the Contractor's non-responsibility due to the intentional provision of false or incomplete information required by New York Power Authority/Canal Corporation or another state agency regarding certain procurement disclosures?**

☐ **No** ☐ **Yes**

**Covered Agency or Authority:** _____

**Year of Finding on Non-Responsibility:** _____

**Basis of Finding of Non-Responsibility:**

_____

_____

_____

_____

Attachment 1

Form J-3

# Contractor Certification of Compliance

**Contractor certifies that all information provided to the Authority/Corporation with respect to the Authority's updated procedures, consistent with New York State Finance Law §§ 139-j and 139-k, providing for certain disclosures is complete, true and accurate. Contractor affirms that it understands and agrees to comply with the practices of the Authority/Corporation relative to permissible contacts as required by New York State Finance Law §§139-j(3) and 139-j(6)(b).**

**Bid/Contract Number** _____

**CONTRACTOR CERTIFICATION:**

I certify that all information provided to the Authority/Corporation with respect to the Authority/Corporation's practices providing for certain disclosures is complete, true and accurate.

By (signature:) _____ Date: _____

Name (printed or typed:) _____

Title: _____

Contractor: _____

Address: _____

City: _____ State: _____ Zip Code: _____

# AFFIDAVIT OF AUTHORITY TO EXECUTE REAL PROPERTY DOCUMENTS

The undersigned_____ [name of authorized person], in his/her capacity as_____ [title of authorized person] (hereinafter, the "Affiant"), personally appeared and, being first duly sworn upon oath said:

1. This affidavit is being executed and submitted on behalf of _____ [name of business organization] (hereinafter, the "Company"), a(n)_____ [legal form of business organization, *e.g.*, corporation, partnership, limited liability company, joint venture, etc.], in good standing in the State of New York.

2. It is in the interest of the Company to purchase certain real property located in the Town of Hastings in the State of New York and identified by the New York State Canal Corporation as Real Property Reference No. SC130084 (hereinafter, the "Property"); and to take all actions necessary for, and to execute any and all documents associated with, such purchase.

3. Affiant is duly authorized to execute such real property documents on behalf of the Company and to bind the Company to the same. Such authorization includes, but is not limited to, explicit authorization to bid for, and to execute agreements in connection with, the purchase and sale of the Property, and to execute all documents required by the New York State Canal Corporation (hereinafter, the "Corporation") in connection with New York State Finance Law §§ 139-j and 139-k.

4. Affiant is not prohibited or limited by the Company's governing documents or by any applicable law from bidding in an auction for the sale of the Property, or from taking any action in connection therewith, including, but not limited to, executing all documents related to the purchase and sale of the Property.

5. Affiant shall notify the Corporation within one (1) business day of any change(s) affecting his/her authorization to bid and/or execute real property documents on the Company's behalf, including, but not limited to, the termination of such authorization to execute real property documents.

6. Affiant is providing this Affidavit with the knowledge that the Corporation will be relying on it prior to entering into any agreement with the Company for the purchase and sale of the Property.

7. Affiant affirms that he/she is aware that to knowingly swear and subscribe to a false statement may constitute a misdemeanor pursuant to New York Penal Law § 210.35 or § 210.45.

_____

AFFIANT'S NAME

_____

AFFIANT'S SIGNATURE

STATE OF NEW YORK

}SS:

COUNTY OF _____

On the _____ day of _____ in the year 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the affiant whose name is subscribed to the foregoing instrument, affirmed, declared, and swore that the statements and representations made hereinabove were, to the best of his/her knowledge and belief, accurate, correct, and true.

_____

Notary Public – State of New York