

June 27, 2017

Town of Queensbury  
742 Bay Road  
Queensbury, NY 12804

Re: Contract # C1000678  
Notice of subcontractor vendor responsibility requirements

Dear Supervisor Strough:

On December 10, 2015, the Department of State, Office of Planning and Development (DOS) awarded an Environmental Protection Fund (EPF) grant to the Town of Queensbury in accordance with the Environmental Conservation Law, Article 54, Title 11 (Local Waterfront Revitalization Program). The grant was for the Town to develop a Watershed Management Plan for Lake George that will guide future actions to further the revitalization of the waterfront of inland waterways.

The Town of Queensbury, as a grantee in receipt of New York State funding, remains responsible for the integrity of the expenditure of public grant funds, including those expended by its subcontractor, throughout the entirety of the EPF contract time frame.<sup>1</sup> The EPF contract reserves the right for DOS to exercise its contractual responsibilities to protect and preserve the integrity of tax payer funds, including the authority to suspend a contract in the event that there is a potential compromise of public grant funds.

On or about March 2, 2017, DOS was notified that the Warren County Sheriff filed a felony complaint in the Town Court in the Town of Lake George (Complaint). The Complaint makes the accusation that David J. Decker did "knowingly, intentionally, and unlawfully steal property with a value [of] more than \$69,156" in connection with United States Department of Agriculture grant associated with work for the Lake Champlain-Lake George Regional Planning Board and the Lake George Watershed Coalition. In connection with these alleged actions, Mr. Decker is alleged to have committed the following felonies: Grand Larceny in the Second Degree in violation of Section 155.40 Subdivision 1 of the Penal Law of the State of New York; Falsifying Business Records in the First Degree in violation of section 175.10 of the Penal Law of the State of New York; and Offering a False Instrument for Filing in the First Degree in violation of Section 175.35 of the Penal Law of the State of New York. A copy of the Complaint is attached to this letter.

<sup>1</sup> See New York State Master Grant Contract Section IV.B.1. "If the Contractor enters into subcontracts for the performance of work pursuant to the Master Contract, the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Master Contract. No contractual relationship shall be deemed to exist between the subcontractor and the State."



Department  
of State

The current work plan for Contract C1000678 lists Mr. Decker as a subcontractor for the completion of numerous tasks. If the Town intends to retain David J. Decker as its subcontractor, DOS is requesting, in accordance with Master Grant Contract Subsection IV.B and prior to the Town entering into a subcontract with Mr. Decker, that Mr. Decker provide to DOS information that it will need to determine whether he is a responsible vendor.<sup>2</sup> Upon receipt of the vendor responsibility information from Mr. Decker, DOS will issue a written finding as to whether Mr. Decker is a responsible vendor.

Please contact John Wimbush at (518) 486-3108 if there are further questions regarding this letter.

Sincerely,



Sarah Stern Crowell, AICP  
Acting Director, Division of Planning

cc: Kari Gathen, Associate Attorney, Office of General Council, DOS  
LuAnn Hart, Director of Financial Administration, DOS  
John Wimbush, Coastal Resources Specialist, Office of Planning and Development, DOS

Attachment: Warren County Sheriff's Office, Felony Complaint, Incident # 16-16362, County Of Warren, Town of Lake George, *The People of the State of New York vs. David J. Decker*, March 2, 2017.

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<sup>2</sup> The vendor responsibility forms can be found at: [http://www.osc.state.ny.us/vendrep/form\\_ac3290s.htm](http://www.osc.state.ny.us/vendrep/form_ac3290s.htm).

RECIPIENT Town of Queensbury

CONTRACT # C006654

PROJECT TITLE Lake George Plan Implementation

PAYMENT REQUEST # I

TYPE OF PAYMENT REQUEST: (*Interim*) (Final)

Costs documented on this payment request were incurred during the time period of 1/01/2007 to 9/30/07

II. BUDGET/EXPENDITURE DATA

	Approved Budget Amount	Expenditures Documented this Report	Cumulative Documented Expenditures	Available Balance to Document
A. Salaries & Wages	\$	\$	\$	\$
B. Travel	\$	\$	\$	\$
C. Supplies & Materials	\$	\$	\$	\$
D. Equipment	\$	\$	\$	\$
E. Contractual Services	\$ 500,000.00	\$ 302,810.76	\$ 302,810.76	\$ 197,189.24
F. Other				
Reimbursable costs*	\$	\$	\$	\$
Local Share only*	\$ 500,000.00	\$ 305,000.00	\$ 305,000.00	\$ 195,000.00
TOTAL	\$ 1,000,000.00	\$ 607,810.76	\$ 607,810.76	\$ 392,189.24

\* See the Record Keeping and Payment Guide for more information

III. CERTIFICATION

I certify that:

- 1) the above claim as detailed on attached forms is just, true and correct; that the amount claimed accurately represents the expenses as recorded in our accounting records;
- 2) the attached status report and project narrative accurately represents current project status;
- 3) we are in compliance with all applicable provisions of the above-referenced Agreement;
- 4) documented expenditures have been made solely for the purposes of the project as described in the work program of the above-referenced Agreement;
- 5) persons not parties to the above-referenced Agreement who performed work under the Agreement have been compensated or will be compensated; and
- 6) I am the responsible representative authorized to certify this claim.

 Daniel G. Stec Supervisor

ORIGINAL SIGNATURE

PRINTED NAME

TITLE

Date 10/5/07

Contact Person David J. Decker, P.E.

Telephone No. 518-461-2200

-----Original Message-----

From: Barbara Tierney  
Sent: Tuesday, July 11, 2017 9:26 AM  
To: Swan, Michael <swanm@warrencountyny.gov>  
Cc: Town Board <TownBoard@queensbury.net>  
Subject: RE: \$50,000

Hello Mike,

I'm sorry to be the bearer of bad news but the payments have been made to Mr. Decker. I hope the County will recoup the \$50k.

Please let me know if you need anything further on this matter.

Best Regards,  
Barbara

-----Original Message-----

From: Swan, Michael [mailto:swanm@warrencountyny.gov]  
Sent: Tuesday, July 11, 2017 9:22 AM  
To: Barbara Tierney <barbarat@queensbury.net>  
Subject: RE: \$50,000

Barbara,

Thanks for the information. FYI, we never received the second payment. I have turn the matter over to the Sheriff and our county attorney. I think at this point the county will no longer be asking for payment from the Town.

Mike

Michael R. Swan  
Warren County Treasurer  
1340 State Route 9  
Lake George, New York 12845  
Phone 518-761-6379  
Fax 518-761-6470