SECTION 1. INTRODUCTION

1.1 Project Location

The Western Gateway project area is located in the City of Glen Cove (City). The City is situated on the north shore of Long Island in Nassau County, New York. The project area includes Shore Road from Morris Avenue to Glen Cove Avenue; Glen Cove Avenue from Shore Road to Pratt Boulevard/State Route (SR) 107; all of Park Place; and all of Morris Avenue. The project area is located directly southwest of downtown Glen Cove, encompassing the south side of Glen Cove Creek, including approximately 0.35 miles of shoreline along the Creek. The area serves as a gateway to downtown Glen Cove and the waterfront. Attachment 1 includes a map of the project area.

1.2 Project Description

The City, as Contractor for the New York State Department of Environmental Conservation (DEC), is seeking a planning and environmental consultant (“Consultant”) for professional planning services for preparation of the Western Gateway Climate Vulnerability Assessment and Adaptation Strategies. The objective of the project is the development of a plan to enhance resilience to climate change on the south side of Glen Cove Creek.

Anticipated impacts of climate change on the south side of Glen Cove Creek include the following: mean annual temperatures are projected to rise; mean precipitation is projected to increase; an increase in extreme events in anticipated, including more days at or above 90 degrees Fahrenheit, and more intense hurricanes and winter storms, causing storm surges and severe flooding; and sea level is projected to rise. Flood zones within the project area are projected to be larger. According to the New York State Department of State (DOS) Coastal Risk Map, the Western Gateway project area includes extreme, high, and moderate risk areas. Extreme risk areas are currently at risk of frequent inundation, vulnerable to erosion in the
next 35 years, and/or likely to be inundated in the future due to sea level rise. High and moderate risk areas are also at risk in the future from sea level rise, and are currently at risk of inundation from infrequent events.

The City has convened an Advisory Committee—comprised of local stakeholders and City staff and officials—for the project. The Advisory Committee will help guide the progress and outcomes of the plan.

The project will begin with an evaluation of existing conditions in the Western Gateway area, and an assessment of the area’s vulnerability to climate change. Risks assessed will include sea level rise and storm surge, increased precipitation and downpours, and higher average temperatures. Existing land uses, natural resources, and non-motorized transportation infrastructure in the project area will be inventoried and analyzed from a floodplain/climate impact perspective.

The project will include solicitation of input from the public and stakeholders, via a public meeting/open house.

The project will include development of climate adaptation strategies and strategies to reduce greenhouse gas emissions in the Western Gateway area. The project will potentially provide recommendations for the following:

- coastal protection measures to reduce flood risk (e.g., sea wall construction, bulkhead improvements, beach nourishment, and expansion of shoreline open space);
- engineering measures necessary for proposed reuse / future use of properties (e.g., elevated buildings);
- potential relocation of uses that are not water-dependent from flood-prone areas, and evaluation of redevelopment scenarios from a climate change perspective;
- measures to protect utilities and infrastructure against flooding;
- green infrastructure techniques for storm water management (e.g., natural vegetation, swales, rain gardens, and similar landscaping practices);
- strategies to address extreme heat;
- opportunities for renewable energy (solar, wind, etc.); and
- strategies to improve non-motorized connections within the project area, and to promote pedestrian, bicycle, and bus/shuttle linkages to downtown Glen Cove, the north side of Glen Cove Creek, and nearby Long Island Rail Road (LIRR) stations.

The project will include environmental review of the plan pursuant to the New York State Environmental Quality Review Act (SEQRA).

The Western Gateway Climate Vulnerability Assessment and Adaptation Strategies project ties in with the DOS-funded Waterside Recreational Redevelopment (WRR) project, which is currently in the engineering phase. The WRR project area is within the broader Western Gateway project area. The construction of the WRR project would reclaim an 8.8-acre waste management complex with the construction of a multi-purpose athletic field. Primary goals of
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the project are adding parkland to the John Maccarone Memorial (City) Stadium and increasing public access to the waterfront on the south side of Glen Cove Creek.

1.3 Project Funding

The City has received funding for this project through the DEC Climate Smart Communities (CSC) Grant Program. Funding for the project is managed by the Glen Cove Community Development Agency (CDA). The Consultant will be responsible for coordinating and complying with the CDA on all project funding-related decisions.

The total budget available for consulting services for this project is $50,000.

1.4 Project Contract Administration

The Glen Cove CDA will be responsible for grant oversight and project management for this project.

1.5 Project Schedule

The anticipated start date for the project is October 2019. It is the City’s intent for the project to be completed by February 2021. The Consultant will develop and adhere to a schedule, including all necessary work within the Scope of Services detailed in this RFP, in order for the City to meet the expected project completion date.

1.6 Subconsultants

The Consultant will be responsible for coordinating and scheduling work, including work to be performed by subconsultants, if applicable.

SECTION 2. SCOPE OF SERVICES

In responding to this RFP, the selected Consultant will assist the City in fulfilling the scope of work below and meeting the obligations outlined in the City’s grant agreement with New York State.

The Consultant will not commence work on a phase of the project without the written approval of the City.

The Consultant will provide all products and requested documentation in electronic copy (native file format and .pdf as appropriate).

2.1 Kick-off Meeting

Participate in kick-off meeting. The City will hold a kick-off meeting with the Consultant, and other project partners as appropriate, to transfer information and to review the project scope,
project requirements, roles and responsibilities, stakeholder involvement, information needs, and next steps. City staff will prepare a meeting summary to be circulated following the meeting.

2.2 Existing Conditions Analysis and Climate Vulnerability Assessment

*Analyze existing conditions.* The Consultant will prepare an inventory and analysis of existing land uses, natural resources, and non-motorized transportation infrastructure in the Western Gateway project area from a floodplain/climate impact perspective.

**Deliverables:** The Consultant will prepare text, graphics, maps, and photos providing an inventory and analysis of existing conditions in the project area. The City and Advisory Committee will review consultant deliverables. Work products will also be provided to DEC for review. Consultant deliverables will be modified in response to feedback from the City, Advisory Committee, and DEC. The Consultant will also revise the existing conditions analysis as needed based on input received at the public meeting/open house (see below).

*Assess vulnerability to climate change.* The Consultant will prepare an assessment of the Western Gateway area’s vulnerability to climate change. Hazards assessed will include sea level rise and storm surge, increased precipitation and downpours, and higher average temperatures. Note that climate data and estimates of climate hazards and effects used for the project should be of an appropriate scale.

**Deliverables:** The Consultant will prepare text, graphics, maps, and photos providing an assessment of vulnerability to climate change. The text will also include a description of the individuals or team that conducted the vulnerability assessment, a description of the climate hazards and effects considered, and a summary of the assessment process. The City and Advisory Committee will review Consultant deliverables. Work products will also be provided to DEC for review. Consultant deliverables will be modified in response to feedback from the City, Advisory Committee, and DEC. The Consultant will also revise the vulnerability assessment as needed based on input received at the public meeting/open house (see below).

2.3 Public Meeting/Open House

*Solicit input from the public and stakeholders.* The project will include solicitation of input from the public and stakeholders, via a public meeting/open house. At the public meeting/open house, the City and Consultant will garner public input regarding climate hazards and their potential impacts, as well as preliminary strategies to address current and anticipated impacts of climate change in the project area. This will be a single joint meeting to gather public input regarding both the climate vulnerability assessment and climate adaptation strategies for the Western Gateway area. Local community involvement will include residents/property owners from the project area and City, as well as representatives from the InterAgency Council of Glen Cove, Tiegerman School, Glen Cove Boys & Girls Club, Glen Cove Housing Authority, Brewer Yacht Yard, the Villas at Glen Cove, the Garvies Point project, Glen Cove Recreation Commission,
Hempstead Harbor Protection Committee, La Fuerza Unida, Glen Cove Downtown Business Improvement District (BID), and Glen Cove Chamber of Commerce.

**Deliverables:** The City will prepare a press release and advertise the public meeting/open house. The Consultant will prepare outreach materials, potentially including poster boards and survey questions, for use at the public meeting/open house. After the event, the Consultant will prepare a summary of the shareholder engagement process, feedback received, and outcomes. The meeting summary will be shared with the City, Advisory Committee, and DEC. As noted above, the Consultant will revise the existing conditions analysis and climate vulnerability assessment as needed based on input received at the public meeting/open house. Public input will also be utilized by the Consultant in developing the climate adaptation strategies and strategies to reduce greenhouse gas emissions.

### 2.4 Climate Adaptation Strategies

*Develop climate adaptation strategies and strategies to reduce greenhouse gas emissions in the Western Gateway area.* The Consultant will develop climate adaptation strategies and strategies to reduce greenhouse gas emissions in the Western Gateway area. The climate adaptation strategies will address vulnerabilities identified by the vulnerability assessment. The adaptation strategies will reflect input received at the public meeting/open house. Strategies may include: coastal protection measures to reduce flood risk; engineering measures necessary for proposed reuse / future use of properties; recommendations for potential relocation of uses that are not water-dependent from flood-prone areas, evaluation of redevelopment scenarios from a climate change perspective, and recommendations for potential expansion of recreational uses along the waterfront; measures to protect utilities and infrastructure against flooding; green infrastructure techniques for storm water management; measures to address extreme heat; opportunities for renewable energy (solar, wind, etc.); and recommendations to improve non-motorized connections within the project area and to strengthen pedestrian, bicycle, and bus/shuttle linkages to downtown Glen Cove, the north side of Glen Cove Creek, and nearby train stations.

**Deliverables:** The Consultant will prepare text, graphics, and maps providing recommended climate adaptation strategies and strategies to reduce greenhouse gas emissions for the Western Gateway area. High level cost estimates will be prepared for infrastructure improvements recommended by the plan. Conceptual design(s) may also be completed depending upon recommendations and if possible given the project budget. The deliverables will be compiled into a single document/plan that will be the subject of the environmental review referenced below. The City and Advisory Committee will review consultant deliverables. Work products will also be provided to DEC for review. Consultant deliverables will be modified in response to feedback from the City, Advisory Committee, and DEC.

### 2.5 Environmental Review

*Achieve conformance with SEQRA requirements.* The Consultant will take actions necessary to comply with SEQRA requirements.
Deliverables: The Consultant will prepare an Environmental Assessment Form (EAF)—describing the plan, location, purpose, and potential impacts on the environment—to determine environmental significance; Draft and Final Scoping documents describing the scope, content, topics, and types of analyses to be included in a Generic Environmental Impact Statement (GEIS); Draft and Final GEIS to analyze potential environmental impacts of the plan; and Findings Statement. It is anticipated that the City Council will declare itself Lead Agency pursuant to SEQRA. The Consultant will attend at least one City Council meeting and one public hearing during the environmental review process. The City will prepare the following documents—which the Consultant will review prior to publication/transmittal by the City—Environmental Notice Bulletin (ENB) SEQRA Notice Publication Forms, draft resolution text for City Council meetings, draft newspaper notice text pursuant to SEQRA, and draft letters to involved and interested agencies and community service providers. The Consultant will develop the list of involved and interested agencies and community service providers; the City will draft letters to these agencies and providers, which will be reviewed by the Consultant prior to mailing by the City.

2.6 Complete the Western Gateway Climate Vulnerability Assessment and Adaptation Strategies

Complete Vulnerability Assessment and Adaptation Strategies. The Consultant will complete the Western Gateway Climate Vulnerability Assessment and Adaptation Strategies.

Deliverables: The Consultant will produce a final document that incorporates the deliverables described in the Scope of Work above. The Consultant will attend the City Council meeting at which Council members vote on adoption of the plan.

SECTION 3. PROPOSAL REQUIREMENTS

The Consultant will demonstrate that the firm has relevant experience in performing projects of comparable value and scope to the type described in this RFP. Each proposal will be prepared concisely, avoiding the use of elaborate promotional materials beyond those sufficient to provide a complete, accurate, and reliable presentation.

3.1 Proposals must be signed by an authorized representative of the firm.

3.2 Proposals must be single-spaced, with font size not less than 12 point. Proposal length is limited to 30 double-sided pages, typed on 8½” x 11” paper. This does not include the cover sheet, cover letter, certificates of insurance, financial statements, proof of authorization to work in New York State, fee proposal, and resumes that must be included with the submission.

3.3 Incomplete proposals that do not include all of the requested components will not be accepted for review and consideration.
3.4 Proposers should fill in the Proposal Cover Sheet, which is attached to this RFP, and use this as the cover page for copies of their submission.

3.5 The proposal will be presented in sections as noted:

1) **Team:** Identify all significant team members who will be assigned to the project, their titles, applicable licenses and certifications, and resumes (including subconsultants, if applicable). Include an organizational chart showing how the project team will operate internally and how it will liaise with the City.

2) **Project Approach and Understanding; Work Program:** Provide a project approach and understanding describing how the project team will meet the overall objectives of the City and ensure a quality project. Provide the work program proposed to furnish the services requested in this RFP. Include a discussion or bullet list of data that the Consultant anticipates utilizing for the project.

3) **Schedule:** Provide a schedule identifying completion of tasks, deliverables, and project milestones. Describe how the timely completion of tasks will be achieved.

4) **Relevant Experience:** Describe the overall expertise and experience of the firm (and subconsultants, if applicable) relative to the Scope of Services contained in this RFP, as well as the availability of key personnel. Describe experience with projects similar in nature and funding, and experience with municipal clients.

5) **References:** Provide summaries and references for similar types of work as requested in this RFP, including recent project information and a contact name and phone number. A minimum of three similar projects in progress or completed in the past ten (10) years are required. Permission to contact references is assumed. The proposer may not use more than one City of Glen Cove or CDA/IDA (Industrial Development Agency) reference; additional City work may be represented in other proposal sections.

6) **Firm Location and Contact Information:** Provide the geographic location of the firm relative to Glen Cove’s location. Provide the street address of the office proposed to handle the work. In addition, provide a working email address for a representative of the responding firm. This person will be contacted when the City distributes responses to Requests for Information (RFI) to proposers.

7) **Certificates of Insurance.** See below for description of insurance requirements.

8) **Fee Proposal.** Provide a detailed fee proposal including the Consultant (and subconsultant, if applicable). This fee proposal will include manpower estimates (number of hours for each staff member) for each phase of work per the Scope of Work and an hourly rate schedule. The multipliers for overhead costs and fee used by proposers to calculate hourly billing rates present in the fee proposal shall not exceed
2.8%. The hourly billing rates of the Consultant’s principals assigned to the project, inclusive of the stated multipliers, shall not exceed $185.00. Estimated costs for travel, printed material, postage, and other relevant items should be provided, broken down by task per the work program. Describe how the Consultant will stay within budget for this project. As noted above, the total budget available for consulting services for this project is $50,000.

The Consultant (and its subconsultants, as applicable) shall meet the following insurance requirements:

- Workers’ Compensation to limits required by New York State law
- Disability Benefits coverage as required by New York State Disability Law
- Commercial General Liability Insurance - $2,000,000 each occurrence, and $5,000,000 general aggregate
- Business Automobile Liability - $1,000,000
- Professional Liability Insurance - $1,000,000 maintained during and for a period of three years after completion of the City’s contract for the project with DEC
- The City of Glen Cove and Glen Cove Community Development Agency shall be listed as Certificate Holder on all liability insurance certificate(s), as additional insureds on endorsement(s) and on additional supporting documentation
- All firms’ insurance policies shall name the City of Glen Cove, Glen Cove Community Development Agency, and other parties as recommended, additionally insured
- The insurance policies should be provided by insurance companies licensed to do business in the State of New York

Minor subconsultants or service providers may petition for reduced insurance amounts through the Consultant, but such limits will be established based on perceived liability by the City, value of such minor services, and at the sole discretion of the Glen Cove City Attorney.

Proposers are required to include their firm’s last audited financial statements and proof of authorization to do business in New York State as appendices to their proposal. Only one print copy of the statements should be included and bound separately from print copies of the proposal. Proposers must submit one electronic .pdf copy of the financial statements on the disc or flash drive submittal (see Section 6 below).

On January 22, 2019, the Glen Cove City Council adopted a resolution requiring all vendors or parties who contract with the City of Glen Cove to complete a Statement of Vendor Qualifications form. A copy of the Statement of Vendor Qualifications form is attached to this RFP. The selected Consultant for this procurement (the successful proposer) will be required to complete the Statement of Vendor Qualifications form.

SECTION 4. PROPOSAL CONDITIONS

4.1 Conditions Governing Proposals
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Only those proposals that contain complete information and are responsive to the RFP will be considered. Proprietary or patented information, which may be included in the proposal, must be clearly identified and brought to the City’s attention.

The City reserves the following rights:
- To accept or reject any or all proposals;
- To waive or modify minor irregularities in proposals received;
- To amend specifications after their release, with due notice given to all proposers to modify their proposals to reflect changed specifications;
- To award a contract for any or all parts of proposal and negotiate with the successful proposer, within the proposal requirements, to best serve the interests of the City.

By submitting a proposal, the proposer agrees that it will not make any claim for or have any right to damages because of any lack of information or misinterpretation of the information provided in this RFP.

The City will not utilize any of the materials submitted in the RFP process included in unsuccessful proposals without permission.

4.2 Freedom of Information Law

All RFP submission materials become the property of the City of Glen Cove. The City is subject to the Freedom of Information Law, which, under the Public Officer’s Law Sections 87 and 89, allows for a process for public disclosure of certain records in possession of the City. Portions of the proposals which contain proprietary information, trade secrets, or information which could cause substantial injury to the competitive position of the proposer can be excluded from public access. If there is such information included, and the proposer wishes it to be excluded from access, the proposer must notify the City in writing along with the specific reasons for the exception.

4.3 Notification of Award

Award of contract occurs when a formal contract has been approved by City of Glen Cove City Council and executed by the City. A Recommendation of Award does not constitute award of contract. If a contract is awarded, it shall be awarded to the responsive and responsible proposer whose offer conforming to the RFP will be most advantageous to the City as set forth in the Evaluation Criteria. The City will notify the successful proposer by phone, followed by written confirmation. The City will notify each proposer whose proposal is rejected in writing. A contract defining terms and conditions of the parties will be drafted by the City. The contract may incorporate any or all of the RFP and as much of the successful proposer’s final proposal as may be appropriate. The successful proposer must show evidence of required insurance coverage per this RFP. As noted above, the successful proposer will be required to complete the City’s Statement of Vendor Qualifications form. The City of Glen Cove reserves the right to postpone, cancel, or reject all proposals, if in its judgment it deems it to be in the best interest of the City to do so. Proposers are advised that the City of Glen Cove has the option of selecting the Consultant
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without conducting interviews, discussions, or negotiations. Therefore, proposers should submit their best proposals initially, since discussions or negotiations may not take place.

4.4 Liability

The City is not liable for any costs incurred by any individual or firm for work performed to prepare its proposal or for any travel and/or other expenses incurred in the preparation and/or submission of its proposal. Further, the City is not liable for any costs incurred prior to approval of the contract.

4.5 Familiarization Costs

It is the sole responsibility of the prospective firms to familiarize themselves with the City’s current programs, facilities, documents and any other information which is necessary and relevant to the Scope of Services detailed in this RFP. The City will not allow any claims for payment which include billable time for familiarization costs borne by the proposer in familiarizing themselves with the above, regardless of whether the costs were incurred prior to or following the submission of the proposer’s proposal or prior to or after receiving an award.

SECTION 5. TITLE VI POLICY

The City of Glen Cove, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 US. C.§§ 2000d to 2000d-4) and the Regulations, hereby notifies all proposers that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit proposals in response to this RFP and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

SECTION 6. SUBMISSION REQUIREMENTS

The proposer shall submit four (4) hard copies of the proposal and one (1) disc or flash drive containing a .pdf copy of the proposal. The proposal should be delivered by hand delivery, courier, or by certified mail in a sealed package and clearly labeled on the outside with the name of the project and the proposer’s name. Proposals should be addressed to the Glen Cove Community Development Agency, Room 304, City Hall, 9 Glen Street, Glen Cove, NY 11542, attention: Jocelyn Wenk, AICP, Grant Writer and Administrator.

SECTION 7. SUBMISSION DEADLINE

Respondents must submit their proposals on or before Thursday, June 27, 2019 by 2:00 pm EST. All proposals must be received before the end of the submission period. A proposal may be withdrawn only by written request at any time prior to the date specified as the submission deadline. The successful candidate shall not modify the proposal after having been notified that the proposal has been accepted by the City, except at the written request of the City.
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Submission shall attest to the proposer’s ability to perform all tasks required under this RFP. The City reserves the right to reject any and all proposals received and to waive any informality in the procurement process, and to accept the proposal which in its judgement best serves the interest of the City.

The City is under no obligation to return proposals to proposers.

Proposals received after the scheduled time and date will not be accepted. Facsimile and e-mail proposals will not be accepted. Each proposer must submit a complete proposal, which addresses each component of the RFP.

The City reserves the right to revise the RFP at any time up to the time set for submission of the proposals. Any such revision(s) will be described in Addenda. If the City determines that the Addenda may require significant changes to the Scope of Work, the deadline for submitting the proposals may be extended at the discretion of the City. The proposer must acknowledge in its proposal submission cover letter what Addenda they received in list format.

SECTION 8. REQUESTS FOR INFORMATION

Proposers may submit a written Request for Information (RFI) until 5:00 pm EST on Tuesday, June 4, 2019 to the authorized contact person. The authorized contact person for this procurement is Jocelyn Wenk, AICP, Grant Writer and Administrator with the Glen Cove CDA. All contact with Ms. Wenk shall be made by e-mail (jwenk@glencovecda.org). Phone calls are not accepted. Ms. Wenk will compile all responses which pertain specifically to this project and will distribute them to the list of registered proposers on or by Wednesday, June 12, 2019. All answers will be disseminated via e-mail; proposers should make sure Ms. Wenk is in possession of a working e-mail address for their firm. The answers will also be posted on the City of Glen Cove website and the NYS Contract Reporter.

No contact with any City or funding agency personnel regarding this project is allowed until such time as an award has been made. Contact with personnel other than Ms. Wenk is grounds for elimination from the procurement process.

SECTION 9. PROPOSAL EVALUATION

Proposals will be evaluated and ranked by the City using the following criteria with the assigned weighted percentages. Proposals will be reviewed on quality, expertise, and completeness; the firm’s potential for completing the work as specified in the RFP; experience with projects similar in nature/funding and previous experience with municipal clients; understanding of and approach to the project in conjunction with the proposed schedule; the organization, availability, and qualifications of key personnel; cost reasonableness; familiarity with State and local requirements; logistics and familiarity with the project area; and ranking with competing proposers.

| Experience with projects similar in nature and funding | 25 points |
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<table>
<thead>
<tr>
<th>Project approach and understanding; work program</th>
<th>20 points</th>
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<tbody>
<tr>
<td>Organization chart; availability and qualifications of key personnel</td>
<td>20 points</td>
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<tr>
<td>Cost reasonableness</td>
<td>20 points</td>
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<tr>
<td>Proposed schedule</td>
<td>5 points</td>
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<tr>
<td>Previous experience with municipal clients</td>
<td>5 points</td>
</tr>
<tr>
<td>Familiarity with the City of Glen Cove and project area</td>
<td>5 points</td>
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Total: 100 points

The City will determine a short list of qualified proposers who will be asked to appear for a personal interview at Glen Cove City Hall, and make a presentation as part of the interview. Non-attendance will be grounds for disqualification. The presentation format is to be determined by the proposer. The proposer should be prepared to clarify any components of their proposal with the City.

The City will form a Review Committee for this RFP. The Committee will be responsible for evaluating proposals and conducting interviews.

Proposers may be subjected to additional questions by the City. Non-responses will be grounds for disqualification.

The proposers must make their proposal with no expectation of reimbursement or compensation for time or material costs incurred in preparation of their proposal.

SECTION 10: CONDITIONS OF CONTRACT

10.1 State of New York Master Contract
The Consultant contract shall adhere to provisions for specifying: (1) that the work performed by the Consultant must be in accordance with the terms of the City’s contract with DEC (2) that nothing contained in the Consultant contract shall impair the rights of the State under the City’s contract with DEC; and, (3) that nothing contained in the Consultant contract, nor under the contract with DEC, shall be deemed to create any contractual relationship between the Consultant and the State.

10.2 Subcontracting
The Consultant may propose subcontracting portions of the responsibilities addressed in its proposal. The proposal must identify any such subcontract(s) and the relevant work they will perform. The City reserves the right to review and approve all subcontractors. The Consultant is responsible for oversight and management of all subcontractors.

New York State’s Office of Minority- and Women-Owned Business Enterprises (OMWBE) has granted an MWBE exemption for this grant contract; there is not a required MWBE goal for this project.
10.3 Payment Process and Claim Requirements
Payments to the Consultant will be made in accordance with the terms of City requirements. All invoices must be accompanied by signed timesheets and other appropriate supporting documentation as requested by the City.

The City’s standard payment term is thirty (30) to sixty (60) days upon receipt of invoice after services are performed or goods delivered. Payment for services performed to the satisfaction of the City shall be made on a monthly basis in the ordinary course of business upon receipt of duly authenticated invoices. Receipts for all non-personal expenses must be attached for such expenses to be eligible for reimbursement. Ten (10) percent of the contract amount will be retained for up to 60 days after the final product has been delivered in order to ensure full compliance with contract guidelines.

10.4 Project Attribution
The City and Consultant must ensure that any materials printed and/or produced which are funded in whole or in part through any activity supported under the New York State Master Contract must acknowledge the support of the New York State Department of Environmental Conservation (NYS DEC). The following statement acknowledging NYS DEC funding for the project must be included in any press releases, public announcements, documents, brochures, reports, and exhibits: “This project has been funded in part by The Climate Smart Community Grant Program, Title 15 of the Environmental Protection Fund through the NYS Department of Environmental Conservation.”

The City and Consultant must also ensure that any materials printed and/or produced which are funded in whole or in part through any activity supported under the New York State Master Contract state that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretations or policy of the State.

SECTION 11. TIMELINE FOR PROCUREMENT

Release of RFP: Thursday, May 2, 2019

Deadline for RFIs: Tuesday, June 4, 2019, by 5:00 p.m. EST via email to Jocelyn Wenk (jwenk@glencovecda.org)

City Response to RFIs: By or before Wednesday, June 12, 2019

Deadline for Submission of Proposals: THURSDAY, JUNE 27, 2019 NO LATER THAN 2:00 PM EST to the Glen Cove Community Development Agency, Room 304, City Hall, 9 Glen Street, Glen Cove, NY 11542, attention: Jocelyn Wenk, AICP, Grant Writer and Administrator.

Anticipated Review Period Including Interviews of Short-listed Proposers: July and August 2019
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Award of Contract: Anticipated September 2019

SECTION 12. ATTACHMENTS

Attachment 1: Map of the Project Area
Attachment 2: Sample City of Glen Cove Contract
Attachment 3: City of Glen Cove Contract with NYS DEC
Attachment 4: Title VI/Nondiscrimination Assurances
Attachment 5: Statement of Vendor Qualifications Form
Attachment 6: Proposal Cover Sheet
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ATTACHMENT 1:
Map of the Project Area
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ATTACHMENT 2:

Sample City of Glen Cove Contract
CONSULTANT CONTRACT
BETWEEN THE CITY OF GLEN COVE
AND {INSERT FIRM NAME}

AGREEMENT dated as of the (INSERT DAY) day of (INSERT MONTH), {INSERT YEAR}, between the City of Glen Cove, a Municipal Corporation duly created and existing under the laws of the State of New York, having its office located at City Hall, 9 Glen Street, Glen Cove, New York 11542 (hereinafter referred to as "City"), and {INSERT CONSULTANT FIRM NAME}, a corporation under the laws of the State of New York, having its office at {INSERT CONSULTANT ADDRESS} (hereinafter referred to as “Consultant”).

WITNESSETH:

WHEREAS, the City requires the services of a professional planning and environmental consultant to perform services as described for the {INSERT PROJECT NAME} (the “Project”, as described in Appendix A attached hereto); and

WHEREAS, the City requires the services of a professional planning and environmental consultant to perform services as described in Appendix A attached hereto; and

WHEREAS, the Consultant is qualified and experienced in performing such services;

WHEREAS, the Consultant was selected from a competitive procurement process;

WHEREAS, the aforesaid services will be funded in part from a {INSERT GRANT NAME, IF GRANT FUNDED} Grant administered by {AGENCY FOLLOWED BY AGENCY ACRONYM IN PARENTHESIS}, with {INSERT AGENCY ACRONYM} contract number {INSERT CONTRACT # or PROJECT ID #};

NOW, THEREFORE, the parties agree as follows:

1. Term

This Agreement shall commence on the date that it is executed by the City and the Consultant (the “Commencement Date”) and terminate on the {INSERT} day of {MONTH, YEAR} (the “Expiration Date”) unless sooner terminated or extended in accordance with its terms. Notwithstanding the foregoing the City shall, in its sole discretion, have the right to extend this Agreement by delivering a notice of extension to the Consultant at least thirty (30) days prior to the Expiration Date. The extended Agreement shall be on the same terms, conditions and covenants as during the initial term except that the Expiration Date shall be modified in accordance with the notice of extension. The Consultant may apply for an Agreement extension in a written notice to the City at least thirty (30) days prior to the date of expiration fixed by the terms of this Agreement.
2. **Services to be Performed**

   (a) The Consultant shall perform the services described in the Scope of Services (Appendix A) annexed hereto and made a part hereof in conformance with the provisions of this Agreement and in conformance with signed amendments as may be agreed to between the parties to this Agreement.

3. **Responsibility of Consultant.**

   (a) The Consultant shall be responsible for the professional quality, technical accuracy and all other services provided by the Consultant under this Agreement. The Consultant shall, without additional compensation, correct or revise any errors or deficiencies in the services as may be required to complete the Project.

   (b) Neither the City’s review, approval or acceptance of, nor payment for, any of the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or any cause of action arising out of the performance of this Agreement, and the Consultant shall be and remain liable to the City in accordance with applicable law for all damages to the City caused by the Consultant’s negligent performance of any of the services furnished under this Agreement.

   (c) All services required shall be performed personally by the Consultant and/or the subcontractors that are part of the Fee Schedule (Appendix C). None of the work or services performed under this Agreement shall otherwise be subcontracted without the City’s prior written approval.

   (d) The Consultant may have to conduct site visits and meet with such appropriate City personnel and agents as the City deems necessary to carry out this Agreement.

   (e) The Consultant, in coordination with the City, must ensure that any materials, printed, constructed, and/or produced which are funded in whole or in part through any activity supported under the {Insert grantor contract name} must acknowledge the support of the {grantor name}.

   **{INSERT ANY OTHER NECESSARY ACKNOWLEDGMENT LANGUAGE}**

   (f) The Consultant will regularly advise City of the status of the Project, and will coordinate its activities with City and accommodate other City activities at the Project site. The Consultant and City shall each designate an authorized representative to be available for consultation, assistance and coordination of activities.
4. **City’s Responsibilities**

(a) City agrees to provide information in its possession including studies, available descriptive information about the project area, prior site evaluations and current conditions.

(b) City will cooperate with the Consultant to complete the Project in a timely, efficient, and cost-effective manner. City shall designate an authorized representative familiar with the Project who shall be available to the Consultant and who has the authority to make all decisions required to assure that the Consultant can provide the services per this Agreement.

5. **Permits and Other Approvals**

Unless specified otherwise the Consultant shall obtain in City’s name all permits and approvals required for the Project.

6. **Time of Performance.**

(a) The services shall commence at the time that the Consultant is notified to proceed and will continue through completion of the project pursuant to the proposed project Work Schedule. Notice to proceed shall be via a written directive issued by the City.

(b) Within two (2) weeks of the Consultant’s receipt of said notice, a critical path method (CPM) Work Schedule detailing all phases of work as outlined in the attached Scope of Services (Appendix A) and benchmark dates for completion of same, shall be submitted to the City for review and approval. The Work Schedule shall become an amendment to this Agreement (Appendix B).

(c) The work shall be performed under the direction of the City of Glen Cove and in accordance with Article 1 of this Agreement. The Consultant shall not commence work on a phase of the Project without the written approval of the City.

7. **Compensation.**

(a) It is understood and agreed that the maximum to be paid the Consultant for its services under and specific to this Agreement shall not exceed \( \text{[INSERT CONSULTANT FEE]} \) per the Fee Schedule (Appendix C) attached hereto and made a part hereof. The City has budgeted for the full amount of this contract. The Fee Schedule shall contain a detailed fee proposal including the Consultant and subconsultants. This fee proposal shall include manpower estimates (number of hours for each staff member) for each phase of work per the Scope of Services and an hourly rate schedule.

(b) The City shall not be responsible for insurance, payroll taxes or fringe benefits.
4

(c) The multipliers for overhead costs and fee included in the hourly billing rates in the fee schedule shall not exceed 2.8 percent.

8. **Method of Payment.**

   (a) Payments to the Consultant will be made in accordance with the terms of City requirements. All invoices must be accompanied by signed timesheets, City claim vouchers, and other appropriate supporting documentation as requested by the City.

   (b) The City’s standard payment term is thirty (30) to sixty (60) days upon receipt of invoice and originally signed voucher after services are performed or goods delivered. Payment for services performed to the satisfaction of the City shall be made on a monthly basis in the ordinary course of business upon receipt of duly authenticated invoices and vouchers. Receipts for all non-personal expenses must be attached for such expenses to be eligible for reimbursement. Ten (10) percent of the Agreement amount will be retained for up to 60 days after the final product has been delivered in order to ensure full compliance with Agreement guidelines.

9. **Additional Rights and Remedies.**

   The rights and remedies set forth herein are not exclusive and are in addition to any of the rights and remedies provided by law or equity.

10. **Independent Contractor.**

   The relationship of the Consultant to the City arising out of this Agreement is that of an independent contractor. The Consultant shall have no power or authority to act for, represent or bind the City in any manner, and shall not be entitled to any life insurance, health insurance, pension benefits or other benefits afforded to the regular employees of the City.

11. **Delays.**

   The City shall have the right to delay, postpone or suspend the services of the Consultant at any time and for any reason deemed to be in the best interest of the City. In such event, the Consultant shall be paid such sums as shall be determined by the City to be due and owing for services actually rendered to the date of delay, postponement or suspension, based on the staff time performed to that date. Such delay, postponement or suspension shall not give rise to any cause of action for damages or for extra remuneration against the City.

12. **Termination.**

   (a) The City may, by written notice to Consultant, terminate this Agreement in whole or in part at any time, either for the City’s convenience or because of the failure of the Consultant to
fulfill its Agreement obligations. Upon receipt of such notice, the Consultant shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the City all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Consultant in performing this Agreement, whether completed or in process.

(b) If the termination is for the convenience of the City, an equitable adjustment in compensation shall be made, but no amount shall be allowed for anticipated profit or unperformed services. The Consultant will be paid for its services based on the staff time performed up to the date of termination.

(c) If the termination is due to the failure of the Consultant to fulfill its Agreement obligations in a timely and proper manner as provided for in this Agreement, the Consultant shall be liable to the City for any additional cost incurred by the City to correct the Consultant’s errors.

(d) If, after notice of termination for failure to fulfill Agreement obligations, it is determined that the Consultant had not so failed, the termination shall be deemed to have been effected for the convenience of the City. In such event, adjustment in compensation shall be made as provided in Paragraph (b) of this clause.

13. Changes.

(a) The City may, from time to time, require changes in the scope of the services of the Consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant’s compensation, which are mutually agreed upon by and between the City and the Consultant, shall be incorporated in written amendments to this Agreement.

(b) No services for which an additional cost or fee will be charged by the Consultant shall be furnished without prior written authorization from the City.


Other than as described in the Consultant’s proposal to the City, the Consultant shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto, provided, however, that claims for money due to the Consultant from the City under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City, and until such notice is received, the assignment shall be ineffective against the City.

15. Interest of Consultant.
The Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.


All work produced, and the product of all services rendered by the Consultant pursuant to this Agreement, shall be the property of the City. The Consultant agrees that any work based on the services rendered under this Agreement shall be kept in confidence and not be released, published, or disseminated in any form without the consent in writing of the City.

17. Right to Data.

The City shall have unlimited rights, for the benefit of the City, to all drawings, designs, specifications, notes, reports, summaries, estimates and other work developed in the performance of this Agreement, without additional cost to the City; and with respect thereto, the Consultant agrees to and does hereby grant to the City a royalty-free license to all such data which it may cover by copyright and to all designs as to which it may assert any rights or establish any claim under the design patent or copyright laws. The Consultant, for a period of three (3) years after completion of the project, agrees to furnish and to provide access to the original or copies of all such materials at the request of the City.

18. Disputes.

Pending final decision or determination by a court of competent jurisdiction of a dispute arising under this Agreement, the Consultant shall proceed diligently with performance in accordance with the Agreement and in accordance with the City’s direction.

19. Final Payment.

Prior to final payment under the Agreement, or prior to settlement upon termination of the Agreement, and as a condition precedent thereto, the Consultant shall execute and deliver to the City a release of all claims against the City arising under or by virtue of this Agreement.

20. Non-Discrimination and Affirmative Action

(a) Pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional nondiscrimination provisions, the City and Consultant will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic
violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; rates of pay or other forms of compensation; and the Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non-discrimination clause. In all solicitations or advertisements for employees placed by or on behalf of the Consultant, the words “EQUAL OPPORTUNITY EMPLOYER” shall appear in type twice as large as that used in the body of the advertisement.

(b) The Consultant must comply with all affirmative action policies mandated by the Federal, State and local government.

21. Consulting Liability

The Consultant will be responsible for all damage to life and property due to negligent acts, errors, or omissions of the Consultant, the Consultant’s subcontractors, agents, or employees in the performance of service under this Agreement.

The Consultant shall indemnify and save harmless the City from claims, suits, actions, damages, and costs of every name and description resulting from the negligent performance of the services of the Consultant under this Agreement, and such indemnity shall not be limited by reasons of enumeration of any insurance coverage herein provided. Negligent performance of service shall include, in addition to negligence founded upon tort, negligence based upon the Consultant’s failure to meet professional standards and resulting in obvious and patent errors in the progression of the Consultant’s work. Nothing in this Agreement shall create or give to third parties any claim or right of action against the City beyond such as may legally exist irrespective of this Agreement.

22. Insurance.

The Consultant shall not commence any work, and the Consultant shall not permit any employee or subcontractor to commence any work until satisfactory proof of carriage of all required forms of insurance, as set forth below, are submitted to and approved by the City.

(a) Comprehensive General Liability Insurance

The Consultant shall take out and maintain during the life of this contract such Comprehensive General Liability Insurance as will protect it and any subconsultant performing work covered by this contract from claims for damages for personal injury, including accidental death, as well as from claims for property damage which may arise from operations under this contract, whether such operations be by itself or by its subconsultant, or by any directly or indirectly employed by either of
them. The City shall be named as “additional insured” on all required liability insurance policies. The amounts of such insurance shall be as follows:

Comprehensive General Liability Insurance in an amount of not less than Five Hundred Thousand and 00/100 ($500,000.00) Dollars for bodily injuries, including wrongful death to any one person, and One Million and 00/100 ($1,000,000.00) Dollars for each occurrence.

Property Damage Insurance in an amount of not less than One Hundred Thousand and 00/100 ($100,000.00) Dollars for damages on account of any one accident and Two Hundred Thousand and 00/100 ($200,000.00) Dollars aggregate during the policy period.

(b) Workers’ Compensation Insurance

The Consultant shall take out and maintain, during the life of this contract, Workers’ Compensation Insurance for all his employees employed at the site of the project and in case of any of the work being sublet, the Consultant shall require the subconsultant similarly to provide Workers’ Compensation Insurance for all of the latter’s employees, unless such employees are covered by the protection afforded by the Consultant.

(c) Property Damage Insurance.

The Consultant shall take out and maintain during the life of this contract Property Damage Insurance as shall protect him and any subcontractor performing work covered by this contract from claims for damages for personal injury including accidental death as well as from claims for property damage which may arise from operations under this contract, whether such operation be by himself or by any subcontractor, or by anyone directly or indirectly employed by either of them. The City shall be named as “additional insured” on all required liability insurance Policies.

{INSERT Business Automobile Liability or Professional Liability Insurance, or other insurances needed on a project specific basis}

(d) Proof of Carriage of Insurance and Other Requirements

The Consultant shall furnish the City with certificates of insurance for each type of insurance required, indicating the City as certificate holder and additional insured. {INSERT ANY OTHER ENTITIES THAT SHOULD BE CERTIFICATE HOLDERS/ADDITIONAL INSURED}

All certificates and insurance policies shall bear the policy numbers, the expiration date of the policies and the limits of liability thereunder. Both the certificates and the policy shall be endorsed to provide the City with any notice of cancellation at least ten (10) days prior to the actual date of such cancellation.
Failure to maintain the required insurance shall be grounds for termination for default.

{IF GRANTOR AGENCY REQUIRES THEY BE ADDITIONAL INSURED, INCLUDE RELEVANT LANGUAGE AND THEIR INSURANCE REQUIREMENTS}

This Agreement shall be void and of no effect unless the Consultant procures the required insurance policies and maintains them until completion of the work or acceptance by City, whichever is later.

The insurance policies should be provided by insurance companies licensed to do business in the State of New York.


This Agreement is to be governed by the laws of the State of New York.

24. Successors and Assigns.

(a) The City and Consultant each is hereby bound, and the partners, successors, executors, administrators and legal representatives of the City and Consultant (and to the extent permitted by Paragraph (b) below, the assigns of the City and Consultant) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

(b) Other than as indicated in the Consultant’s proposal to the City, neither the City nor Consultant shall assign, sublet or transfer any rights under, or interest in (including, but without limitation, moneys that may become due or moneys that are due), this Agreement without written consent of the other, or execute to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to any assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing in this paragraph shall prevent Consultant from employing such independent professional associates and consultants as Consultant may deem appropriate to assist in the performance of services hereunder.

(c) Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the City and Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the City and Consultant and not for the benefit of any other party.

25. Order of Precedence.

The Consultant shall follow the order of precedence below regarding guidelines pursuant to
this Agreement:

(a) {INSERT GRANTOR AGENCY NAMES} guidelines, including but not limited to {INSERT NAME OF GRANTOR-CITY CONTRACT};
(b) City of Glen Cove guidelines;
(c) Any and all questions on conflicting guidance shall be directed to the attention of the Glen Cove Community Development Agency Executive Director in writing by the Consultant.

26. **Code of Ethics.**

The Consultant specifically agrees that this Agreement may be canceled or terminated if any work under this Agreement is in conflict with the provisions of any applicable law establishing a Code of Ethics for Federal, State, or Municipal officers and employees.

27. **Covenant against Contingent Fees.**

The Consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability, or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

28. **Subcontractors/Subconsultants.**

All subcontractors and subconsultants performing work on this project shall be bound by the same required Agreement provisions as the Consultant. All agreements between the Consultant and subcontractor or other subconsultant shall be subject to review by the City.

NYS General Municipal Law §106-b and NYS Finance Law Article 9, §139-f require prime contractors and prime consultants to pay their vendors within seven (7) calendar days of receipt of payment from the public owner/sponsor, and provides for interest on late payments for all public works contracts. Agreement provisions incorporating any other payment schedule will not be allowed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented. When the City has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

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

30. **Notice.**

Any written notice required or authorized under this Agreement shall be personally delivered, sent by certified mail or overnight delivery, or transmitted by facsimile or electronic mail transmission (including PDF) to the authorized representatives designated under this Agreement. The party providing notice must be able to document delivery to the other party. The contact information of the authorized representatives for written notices shall be inserted below:

```
{INSERT CONSULTANT NAME}
{INSERT ADDRESS}
{INSERT ATTENTION}
```

Telephone: 
Fax: 
Email: 

To: City of Glen Cove  
Address: City Hall, 9 Glen Street, Glen Cove NY 11542  
Attention: Timothy Tenke, Mayor  
Telephone: (516) 676-2004  
Fax: (516) 676-0108  
Email: TTenke@cityofglencoveny.org

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is faxed or sent electronically, provided that the sender has received a confirmation of such fax or electronic transmission. The named representatives of the Contractor of City may, for purposes of this Contract, change his or her address, fax number, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Article.

33. **Miscellaneous.**
(a) This Agreement shall be deemed only executory to the extent of the monies available, and no liability shall be incurred by the City beyond the monies legally available for the purposes hereof.

(b) No contractual relationship shall be deemed to exist between the Consultant and the State as a result of this Agreement.

(c) The paragraph headings in this Agreement are included solely for reference, and shall not define, limit, or affect the construction or interpretation of this Agreement.

(d) Each and every provision of any law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the contract shall be read and be enforced as though it were included herein.

(e) All attachments to this Agreement (Appendices A-F) are made a part hereof.

ATTACHMENTS

Appendix A: Scope of Services

Appendix B: Work Schedule [TO BE ADDED]

Appendix C: Fee Schedule [TO BE ADDED]

Appendix D: Organization Chart

Appendix E: [INSERT GRANTOR-CITY CONTRACT NAME]

Appendix F: Title VI/Non-Discrimination Assurances
IN WITNESS WHEREOF, the {INSERT FIRM NAME} have executed this Agreement as of the day and year first above written.

CITY OF GLEN COVE {INSERT FIRM NAME}

By: _________________________ By: _________________________

Timothy Tenke, Mayor ___________________________

Name, Title Name, Title

ACKNOWLEDGMENT

STATE OF NEW YORK )
COUNTY OF NASSAU )

)ss.: On this (INSERT DAY) day of (INSERT MONTH) before me personally came and appeared Timothy Tenke, to me known, who being by me duly sworn, did depose and say that he resides at 9 Glen Street, Glen Cove, New York 11542, that he is the Mayor of the City of Glen Cove, the municipal corporation described in and which executed the foregoing instrument, that he knows the seal of the City of Glen Cove, the seal affixed to said instrument is such municipal seal, that it was so affixed by order of the City Council of the City of Glen Cove, that he signed his name thereto by like order, and that said order empowered him to bind the City of Glen Cove to the obligations of the foregoing agreement.

Notary Public
CORPORATE ACKNOWLEDGMENT

STATE OF NEW YORK )
COUNTY OF NASSAU )

On this (INSERT DAY) day of (INSERT MONTH), before me personally came and appeared ________, to me known, who being by me duly sworn, did depose and say that (HE/SHE) resides at {INSERT ADDRESS}, that (HE/SHE) is the (INSERT TITLE) of {INSERT FIRM NAME}, the corporation described in and which executed the foregoing instrument, that (HE/SHE) knows the seal of said corporation, that the seal affixed to said instrument is such corporate seal, that it was so affixed by order of the Board of Directors of said corporation, that (HE/SHE) signed (HIS/HER) name thereto by like order, and that said order empowered him to bind the said corporation to the obligations of the foregoing agreement.

Notary Public
Appendix A:
Scope of Services
Appendix B: Work Schedule
Appendix C: Fee Schedule
Appendix E:

{INSERT GRANTOR-CITY CONTRACT NAME}
Appendix F:
Title VI/Non-Discrimination Assurances
Request for Proposals
Western Gateway Climate Vulnerability Assessment and Adaptation Strategies

ATTACHMENT 3:

City of Glen Cove Contract with
New York State Department of Environmental Conservation (NYS DEC)
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<td>Western Gateway Climate Vulnerability Assessment and Adaptation Strategies</td>
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<td>CFDA NUMBER (Federally Funded Grants Only):</td>
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<td>DUNS Number (if applicable):</td>
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<td>9 GLEN ST</td>
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CURRENT CONTRACT TERM:
From: 03/15/2018 To: 03/14/2023

CURRENT CONTRACT PERIOD:
From: 03/15/2018 To: 03/14/2023

AMENDED TERM:
From: To:

AMENDED PERIOD:
From: To:

# | CURRENT PERIOD | CURRENT AMOUNT | AMENDED PERIOD | AMENDED AMOUNT
---|----------------|----------------|----------------|----------------
1  |                |                |                |                
2  |                |                |                |                
3  |                |                |                |                
4  |                |                |                |                
5  |                |                |                |                

CONTRACT FUNDING AMOUNT
(Multi-year - enter total projected amount of the contract; Fixed Term/Simplified Renewal - enter current period amount):

CURRENT: $50,000.00

AMENDED:

FUNDING SOURCE(S)
[X] State
☐ Federal
☐ Other

FOR MULTI-YEAR AGREEMENTS ONLY - CONTRACT AND FUNDING AMOUNT:
(Out years represents projected funding amounts)
ATTACHMENTS PART OF THIS AGREEMENT:

Attachment A:  
- [X] A-1 Program Specific Terms and Conditions  
- [ ] A-2 Federally Funded Grants  

Attachment B:  
- [X] B-1 Expenditure Based Budget  
- [ ] B-2 Performance Based Budget  
- [ ] B-3 Capital Budget  
- [ ] B-4 Net Deficit Budget  
- [ ] B-1 (A) Expenditure Based Budget (Amendment)  
- [ ] B-2 (A) Performance Based Budget (Amendment)  
- [ ] B-3 (A) Capital Budget (Amendment)  
- [ ] B-4 (A) Net Deficit Budget (Amendment)  

Attachment C: Work Plan  
Attachment D: Payment and Reporting Schedule  
Other:  

Contract Number: # DEC01-T00480GG-3350000  
3 of 3  
Master Grant Contract, Face Page
IN WITNESS THEREOF, the parties hereto have electronically executed or approved this Master Contract on the dates below their signature.

In addition, I, acting in the capacity as Contractor, certify that I am the signing authority, or have been delegated or designated formally as the signing authority by the appropriate authority or officials, and as such I do agree, and I have the authority to agree, to all of the terms and conditions set forth in the Master Contract, including all appendices and attachments. I understand that (i) payment of a claim on this Master Contract is conditioned upon the Contractor’s compliance with all applicable conditions of participation in this program and (if I am acting in the capacity as a not-for-profit Contractor) the accuracy and completeness of information submitted to the State of New York through the Gateway vendor prequalification process and (ii) by electronically indicating my acceptance of the terms and conditions of the Master Contract, I certify that (a) to the extent that the Contractor is required to register and/or file reports with the Office of Attorney General’s Charities Bureau (“Charities Bureau”), the Contractor’s registration is current, all applicable reports have been filed, and the Contractor has no outstanding requests from the Charities Bureau relating to its filings and (b) all data and responses in the application submitted by the Contractor are true, complete and accurate. I also understand that use of my assigned User ID and Password on the State’s contract management system is equivalent to having placed my signature on the Master Contract and that I am responsible for any activity attributable to the use of my User ID and Password. Additionally, any information entered will be considered to have been entered and provided at my direction. I further certify and agree that the Contractor agrees to waive any claim that this electronic record or signature is inadmissible in court, notwithstanding the choice of law provisions.

CONTRACTOR:
GLEN COVE CITY OF

By: Timothy Tenke
Title: Mayor
Date: 09/18/2018

In addition, the party below certifies that it has verified the electronic signature of the Contractor to this Master Contract.

STATE AGENCY:
Department of Environmental Conservation

By: Nancy Lussier
Title: Director, Division of Management and Budget Services
Date: 09/19/2018

ATTORNEY GENERAL’S SIGNATURE
APPROVED AS TO FORM

By: __________________________
Printed Name
Title: __________________________
Date: __________________________

STATE COMPTROLLER’S SIGNATURE

By: __________________________
Printed Name
Title: __________________________
Date: __________________________

Contract Number: # DEC01-T00480GG-3350000
Page 1 of 1, Master Contract for Grants Signature Page
STATE OF NEW YORK
MASTER CONTRACT FOR GRANTS

This State of New York Master Contract for Grants (Master Contract) is hereby made by and between the State of New York acting by and through the applicable State Agency (State) and the public or private entity (Contractor) identified on the face page hereof (Face Page).

WITNESSETH:

WHEREAS, the State has the authority to regulate and provide funding for the establishment and operation of program services, design or the execution and performance of construction projects, as applicable and desires to contract with skilled parties possessing the necessary resources to provide such services or work, as applicable; and

WHEREAS, the Contractor is ready, willing and able to provide such program services or the execution and performance of construction projects and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services or work, as applicable, required pursuant to the terms of the Master Contract;

NOW THEREFORE, in consideration of the promises, responsibilities, and covenants herein, the State and the Contractor agree as follows:

STANDARD TERMS AND CONDITIONS

I. GENERAL PROVISIONS

A. Executory Clause: In accordance with Section 41 of the State Finance Law, the State shall have no liability under the Master Contract to the Contractor, or to anyone else, beyond funds appropriated and available for the Master Contract.

B. Required Approvals: In accordance with Section 112 of the State Finance Law (or, if the Master Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Master Contract exceeds $50,000 (or $85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Master Contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $10,000, it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the AG and OSC.

Budget Changes: An amendment that would result in a transfer of funds among program activities or budget cost categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the AG and OSC where the amount of such modification is, as a portion of the total value of the contract, equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than
five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Attachment D (Payment and Reporting Schedule).

C. **Order of Precedence:**

In the event of a conflict among (i) the terms of the Master Contract (including any and all attachments and amendments) or (ii) between the terms of the Master Contract and the original request for proposal, the program application or other attachment that was completed and executed by the Contractor in connection with the Master Contract, the order of precedence is as follows:

1. Standard Terms and Conditions
2. Modifications to the Face Page
3. Modifications to Attachment A-2, Attachment B, Attachment C and Attachment D
4. The Face Page
5. Attachment A-2, Attachment B, Attachment C and Attachment D
6. Modification to Attachment A-1
7. Attachment A-1
8. Other attachments, including, but not limited to, the request for proposal or program application

D. **Funding:** Funding for the term of the Master Contract shall not exceed the amount specified as “Contract Funding Amount” on the Face Page or as subsequently revised to reflect an approved renewal or cost amendment. Funding for the initial and subsequent periods of the Master Contract shall not exceed the applicable amounts specified in the applicable Attachment B form (Budget).

E. **Contract Performance:** The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Master Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Attachment C (Work Plan) in accordance with the provisions of the Master Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program.

F. **Modifications:** To modify the Attachments or Face Page, the parties mutually agree to record, in writing, the terms of such modification and to revise or complete the Face Page and all the appropriate attachments in conjunction therewith. In addition, to the extent that such modification meets the criteria set forth in Section I.B herein, it shall be subject to the approval of the AG and

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1 To the extent that the modifications to Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the modifications to Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

2 To the extent that the terms of Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the Federal requirements of Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).
OSC before it shall become valid, effective and binding upon the State. Modifications that are not subject to the AG and OSC approval shall be processed in accordance with the guidelines stated in the Master Contract.


H. Severability: Any provision of the Master Contract that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof; provided, however, that the parties to the Master Contract shall attempt in good faith to reform the Master Contract in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

I. Interpretation: The headings in the Master Contract are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered to be gender neutral. The Master Contract has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.

J. Notice:

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:
   a) by certified or registered United States mail, return receipt requested;
   b) by facsimile transmission;
   c) by personal delivery;
   d) by expedited delivery service; or
   e) by e-mail.

2. Notices to the State shall be addressed to the Program Office designated in Attachment A-1 (Program Specific Terms and Conditions).

3. Notices to the Contractor shall be addressed to the Contractor’s designee as designated in Attachment A-1 (Program Specific Terms and Conditions).

4. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.

5. The parties may, from time to time, specify any new or different e-mail address, facsimile number or address in the United States as their address for purpose of receiving notice under the
Master Contract by giving fifteen (15) calendar days prior written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under the Master Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.

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

L. Set-Off Rights: The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold, for the purposes of set-off, any moneys due to the Contractor under the Master Contract up to any amounts due and owing to the State with regard to the Master Contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of the Master Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State Agency, its representatives, or OSC.

M. Indemnification: The Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Contractor or its subcontractors pursuant to this Master Contract. The Contractor shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and cost of every nature arising out of the provision of services pursuant to the Master Contract.

N. Non-Assignment Clause: In accordance with Section 138 of the State Finance Law, the Master Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the State’s previous written consent, and attempts to do so shall be considered to be null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract, let pursuant to Article XI of the State Finance Law, may be waived at the discretion of the State Agency and with the concurrence of OSC, where the original contract was subject to OSC’s approval, where the assignment is due to a reorganization, merger, or consolidation of the Contractor’s business entity or enterprise. The State retains its right to approve an assignment and to require that the merged contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State’s prior written consent unless the Master Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

O. Legal Action: No litigation or regulatory action shall be brought against the State of New York, the State Agency, or against any county or other local government entity with funds provided under the Master Contract. The term “litigation” shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from
any of the State of New York, the State Agency, or any county, or other local government entity. The term “regulatory action” shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

P. **No Arbitration:** Disputes involving the Master 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.

Q. **Secular Purpose:** Services performed pursuant to the Master Contract are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

R. **Partisan Political Activity and Lobbying:** Funds provided pursuant to the Master Contract shall not be used for any partisan political activity, or for activities that attempt to influence legislation or election or defeat of any candidate for public office.

S. **Reciprocity and Sanctions Provisions:** The Contractor is hereby notified that if its 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 it offers shall be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that it be denied contracts which it would otherwise obtain.

T. **Reporting Fraud and Abuse:** Contractor acknowledges that it has reviewed information on how to prevent, detect, and report fraud, waste and abuse of public funds, including information about the Federal False Claims Act, the New York State False Claims Act, and whistleblower protections.

U. **Non-Collusive Bidding:** By submission of this bid, the Contractor and each person signing on behalf of the Contractor certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive binding certification on the Contractor’s behalf.

V. **Federally Funded Grants and Requirements Mandated by Federal Laws:** All of the Specific Federal requirements that are applicable to the Master Contract are identified in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto. To the extent that the Master Contract is funded in whole or part with Federal funds or mandated by Federal laws, (i) the provisions of the Master Contract that conflict with Federal rules, Federal regulations, or Federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable Federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto.

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3As of October 9, 2012, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.

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II. TERM, TERMINATION AND SUSPENSION

A. Term: The term of the Master Contract shall be as specified on the Face Page, unless terminated sooner as provided herein.

B. Renewal:

1. General Renewal: The Master Contract may consist of successive periods on the same terms and conditions, as specified within the Master Contract (a “Simplified Renewal Contract”). Each additional or superseding period shall be on the forms specified by the State and shall be incorporated in the Master Contract.

2. Renewal Notice to Not-for-Profit Contractors:

   a) Pursuant to State Finance Law §179-t, if the Master Contract is with a not-for-profit Contractor and provides for a renewal option, the State shall notify the Contractor of the State’s intent to renew or not to renew the Master Contract no later than ninety (90) calendar days prior to the end of the term of the Master Contract, unless funding for the renewal is contingent upon enactment of an appropriation. If funding for the renewal is contingent upon enactment of an appropriation, the State shall notify the Contractor of the State’s intent to renew or not to renew the Master Contract the later of: (1) ninety (90) calendar days prior to the end of the term of the Master Contract, and (2) thirty (30) calendar days after the necessary appropriation becomes law. Notwithstanding the foregoing, in the event that the State is unable to comply with the time frames set forth in this paragraph due to unusual circumstances beyond the control of the State (“Unusual Circumstances”), no payment of interest shall be due to the not-for-profit Contractor. For purposes of State Finance Law §179-t, “Unusual Circumstances” shall not mean the failure by the State to (i) plan for implementation of a program, (ii) assign sufficient staff resources to implement a program, (iii) establish a schedule for the implementation of a program or (iv) anticipate any other reasonably foreseeable circumstance.

   b) Notification to the not-for-profit Contractor of the State’s intent to not renew the Master Contract must be in writing in the form of a letter, with the reason(s) for the non-renewal included. If the State does not provide notice to the not-for-profit Contractor of its intent not to renew the Master Contract as required in this Section and State Finance Law §179-t, the Master Contract shall be deemed continued until the date the State provides the necessary notice to the Contractor, in accordance with State Finance Law §179-t. Expenses incurred by the not-for-profit Contractor during such extension shall be reimbursable under the terms of the Master Contract.
C. Termination:

1. Grounds:

   a) Mutual Consent: The Master Contract may be terminated at any time upon mutual written consent of the State and the Contractor.

   b) Cause: The State may terminate the Master Contract immediately, upon written notice of termination to the Contractor, if the Contractor fails to comply with any of the terms and conditions of the Master Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Master Contract.

   c) Non-Responsibility: In accordance with the provisions of Sections IV(N)(6) and (7) herein, the State may make a final determination that the Contractor is non-responsible (Determination of Non-Responsibility). In such event, the State may terminate the Master Contract at the Contractor’s expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.

   d) Convenience: The State may terminate the Master Contract in its sole discretion upon thirty (30) calendar days prior written notice.

   e) Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Master Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Master Contract, the Master Contract may be terminated or reduced at the State Agency’s discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the State Agency for payment of such costs. Upon termination or reduction of the Master Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to the State Agency. In any event, no liability shall be incurred by the State (including the State Agency) beyond monies available for the purposes of the Master Contract. The Contractor acknowledges that any funds due to the State Agency or the State of New York because of disallowed expenditures after audit shall be the Contractor’s responsibility.

   f) Force Majeure: The State may terminate or suspend its performance under the Master Contract immediately upon the occurrence of a “force majeure.” For purposes of the Master Contract, “Force majeure” shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

2. Notice of Termination:

   a) Service of notice: Written notice of termination shall be sent by:

      (i) personal messenger service; or

      (ii) certified mail, return receipt requested and first class mail.
b) **Effective date of termination:** The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Contractor, and shall be established as follows:

(i) if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or

(ii) if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

3. **Effect of Notice and Termination on State’s Payment Obligations:**

   a) Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

   b) The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Master Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Master Contract after its termination date.

4. **Effect of Termination Based on Misuse or Conversion of State or Federal Property:**

   Where the Master Contract is terminated for cause based on Contractor’s failure to use some or all of the real property or equipment purchased pursuant to the Master Contract for the purposes set forth herein, the State may, at its option, require:

   a) the repayment to the State of any monies previously paid to the Contractor; or

   b) the return of any real property or equipment purchased under the terms of the Master Contract; or

   c) an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

   Nothing herein shall be intended to limit the State’s ability to pursue such other legal or equitable remedies as may be available.

D. **Suspension:** The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor’s expenses during such suspension period. Activities may resume at such time as the State issues a formal written notice authorizing a resumption of performance under the Master Contract.
III. PAYMENT AND REPORTING

A. Terms and Conditions:

1. In full consideration of contract services to be performed, the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.

2. The State has no obligation to make payment until all required approvals, including the approval of the AG and OSC, if required, have been obtained. Contractor obligations or expenditures that precede the start date of the Master Contract shall not be reimbursed.

3. Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Attachment D (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.

4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of the State Agency, in the sole discretion of the head of such State Agency, due to extenuating circumstances. Such electronic payment shall be made in accordance with OSC’s procedures and practices to authorize electronic payments.

5. If travel expenses are an approved expenditure under the Master Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.

6. Timeliness of advance payments or other claims for reimbursement, and any interest to be paid to Contractor for late payment, shall be governed by Article 11-A of the State Finance Law to the extent required by law.

7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, “Full Execution” shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Master Contract shall be governed by Article 11-B of the State Finance Law.
B. Advance Payment and Recoupment:

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Attachment D (Payment and Reporting Schedule).

2. Initial advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page. Subsequent advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the dates specified in Attachment D (Payment and Reporting Schedule).

3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Attachment D) will be modified as part of the renewal process.

4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Attachment D (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.

5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

C. Claims for Reimbursement:

1. The Contractor shall submit claims for the reimbursement of expenses incurred on behalf of the State under the Master Contract in accordance with this Section and the applicable claiming schedule in Attachment D (Payment and Reporting Schedule).

Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the applicable Attachment B form (Budget) and during the Contract Term. When submitting a voucher, such voucher shall also be deemed to certify that: (i) the payments requested do not duplicate reimbursement from other sources of funding; and (ii) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program. Requirement (ii) does not apply to grants funded pursuant to a Community Projects Fund appropriation.

2. Consistent with the selected reimbursement claiming schedule in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:

   a) **Quarterly Reimbursement**: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).
The Contractor shall submit to the State Agency quarterly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

b) Monthly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency monthly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

c) Biannual Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency biannually voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

d) Milestone/Performance Reimbursement: Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event.

Milestone payments shall be made to the Contractor when requested in a form approved by the State, and at frequencies and in amounts stated in Attachment D (Payment and Reporting Schedule). The State Agency shall make milestone payments subject to the Contractor’s satisfactory performance.

e) Fee for Service Reimbursement: Payment shall be limited to only those fees specifically agreed upon in the Master Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f) Rate Based Reimbursement: Payment shall be limited to rate(s) established in the Master Contract. Payment may be requested no more frequently than monthly.

g) Scheduled Reimbursement: The State Agency shall generate vouchers at the frequencies and amounts as set forth in Attachment D (Payment and Reporting Schedule), and service reports shall be used to determine funding levels appropriate to the next annual contract period.

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4 A milestone/ performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Master Contract effort.

5 Fee for Service is a rate established by the Contractor for a service or services rendered.

6 Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.

7 Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Master Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.
h) **Interim Reimbursement:** The State Agency shall generate vouchers on an interim basis and at the amounts requested by the Contractor as set forth in Attachment D (Payment and Reporting Schedule).

i) **Fifth Quarter Payments:** Eighth (8th) quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. The State Agency shall use a written directive for fifth quarter financing. The State Agency shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.

4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Master Contract as security for the faithful completion of services or work, as applicable, under the Master Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Master Contract. In the event that such withheld funds are insufficient to satisfy Contractor’s obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.

5. The State shall not be liable for payments on the Master Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.

6. All vouchers submitted by the Contractor pursuant to the Master Contract shall be submitted to the State Agency no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by the State Agency, and, if actual expenditures by the Contractor are less than such sum, the amount payable by the State Agency to the Contractor shall not exceed the amount of actual expenditures.

7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Master Contract is funded, in whole or in part, with Federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

**D. Identifying Information and Privacy Notification:**

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor’s Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor’s Federal employer identification number,
(ii) the Contractor’s Federal social security number, and/or (iii) DUNS number. Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

2. The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. The personal information is requested by the purchasing unit of the State Agency contracting to purchase the goods or services or lease the real or personal property covered by the Master Contract. This information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York, 12236.

E. Refunds:

1. In the event that the Contractor must make a refund to the State for Master Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in Attachment A-1 (Program Specific Terms and Conditions). The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Designated Refund Office at the address specified in Attachment A-1 (Program Specific Terms and Conditions).

2. If at the end or termination of the Master Contract, there remains any unexpended balance of the monies advanced under the Master Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45) calendar days of the end or termination of the Master Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.

F. Outstanding Amounts Owed to the State: Prior period overpayments (including, but not limited to, contract advances in excess of actual expenditures) and/or audit recoveries associated with the Contractor may be recouped against future payments made under this Master Contract to Contractor. The recoupment generally begins with the first payment made to the Contractor following identification of the overpayment and/or audit recovery amount. In the event that there are no payments to apply recoveries against, the Contractor shall make payment as provided in Section III(E) (Refunds) herein.

G. Program and Fiscal Reporting Requirements:

1. The Contractor shall submit required periodic reports in accordance with the applicable schedule provided in Attachment D (Payment and Reporting Schedule). All required reports or other work products developed pursuant to the Master Contract must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to the State Agency in order for the Contractor to be eligible for payment.
2. Consistent with the selected reporting options in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the following applicable provisions:

a) If the Expenditure Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with one or more of the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

(i) **Narrative/Qualitative Report**: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Attachment C (Work Plan). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.

(ii) **Statistical/Quantitative Report**: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.)

(iii) **Expenditure Report**: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.

(iv) **Final Report**: The Contractor shall submit a final report as required by the Master Contract, not later than the time period listed in Attachment D (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Attachment C (Work Plan).

(v) **Consolidated Fiscal Report (CFR)**: The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Attachment D (Payment and Reporting Schedule).

b) If the Performance-Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

(i) **Progress Report**: The Contractor shall provide the State Agency with a written progress report using the forms and formats as provided by the State Agency, summarizing the work performed during the period. These reports shall detail the Contractor’s progress toward attaining the specific goals enumerated in Attachment C (Work Plan). Progress reports shall be submitted in a format prescribed in the Master Contract.
(ii) **Final Progress Report:** Final scheduled payment is due during the time period set forth in Attachment D (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Attachment D (Payment and Reporting Schedule). The State Agency shall complete its audit and notify the Contractor of the results no later than the date set forth in Attachment D (Payment and Reporting Schedule). Payment shall be adjusted by the State Agency to reflect only those services/expenditures that were made in accordance with the Master Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Attachment D (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Attachment D (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Master Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Attachment D (Payment and Reporting Schedule).

**H. Notification of Significant Occurrences:**

1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Contractor agrees to submit to the State Agency within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.

2. The Contractor shall immediately notify in writing the program manager assigned to the Master Contract of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Master Contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Contractor; or other matters of a similarly serious nature.

**IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES**

**A. Contractor as an Independent Contractor/Employees:**

1. The State and the Contractor agree that the Contractor is an independent contractor, and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. Notwithstanding the foregoing, the State and the Contractor agree that if the Contractor is a New York State municipality, the Contractor shall be permitted to hold itself out, and claim, to be a subdivision of the State.

The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Master Contract, and all applicable Federal and State laws and regulations.
2. The Contractor warrants that it, its staff, and any and all subcontractors have all the necessary licenses, approvals, and certifications currently required by the laws of any applicable local, state, or Federal government to perform the services or work, as applicable, pursuant to the Master Contract and/or any subcontract entered into under the Master Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Master Contract, or any extension thereof, and to secure any new licenses, approvals, or certificates within the required time frames and/or to require its staff and subcontractors to obtain the requisite licenses, approvals, or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval, or certification to perform the services or work, as applicable, under the Master Contract, Contractor shall immediately notify the State.

B. Subcontractors:

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.

2. If requested by the State, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of $100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of $100,000 prior to giving written permission to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of the Master Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Master Contract, and (3) that nothing contained in the subcontract, nor under the Master Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.

3. If requested by the State, prior to executing a subcontract, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.

4. If requested by the State, when a subcontract equals or exceeds $100,000, the subcontractor shall submit a Vendor Responsibility Questionnaire (Questionnaire).

5. If requested by the State, upon the execution of a subcontract, the Contractor shall provide detailed subcontract information (a copy of subcontract will suffice) to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.

6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to the State agency, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Attachment D (Payment and Reporting
Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

C. Use Of Material, Equipment, Or Personnel:

1. The Contractor shall not use materials, equipment, or personnel paid for under the Master Contract for any activity other than those provided for under the Master Contract, except with the State’s prior written permission.

2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Master Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Master Contract.

D. Property:

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of $1,000 or more per unit.

   a) If an item of Property required by the Contract is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.

   b) If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Master Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor’s cost and expense upon the expiration of the Master Contract.

   c) In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.

   d) The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Master Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the State Agency, naming the State Agency as an additional insured, covering the loss, theft or destruction of such equipment.

   e) A rental charge to the Master Contract for a piece of Property owned by the Contractor shall not be allowed.

   f) The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Master Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any
Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.

g) No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Master Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.

2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Master Contract:

a) For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.

b) For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.

3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Master Contract shall be governed by the terms and conditions of Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.

5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

E. Records and Audits:

1. General:

a) The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract (collectively, Records).

b) The Contractor agrees to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such Records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

   (i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders,
detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(ii) payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(iii) non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.

(iv) receipt and deposit of advance and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

c) The OSC, AG and any other person or entity authorized to conduct an examination, as well as the State Agency or State Agencies involved in the Master Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays), at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

d) The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records, as exempt under Section 87 of the Public Officers Law, is reasonable.

e) Nothing contained herein shall diminish, or in any way adversely affect, the State's rights in connection with its audit and investigatory authority or the State’s rights in connection with discovery in any pending or future litigation.

2. Cost Allocation:

a) For non-performance based contracts, the proper allocation of the Contractor’s costs must be made according to a cost allocation plan that meets the requirements of OMB Circulars A-87, A-122, and/or A-21. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

b) For performance based milestone contracts, or for the portion of the contract amount paid on a performance basis, the Contractor shall maintain documentation demonstrating that milestones were attained.

F. Confidentiality: The Contractor agrees that it shall use and maintain personally identifiable information relating to individuals who may receive services, and their families pursuant to the Master Contract, or any other information, data or records marked as, or reasonably deemed, confidential by the State (Confidential Information) only for the limited purposes of the Master Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must 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).

G. Publicity:

1. Publicity includes, but is not limited to: news conferences; news releases; public announcements; advertising; brochures; reports; discussions or presentations at conferences or meetings; and/or the inclusion of State materials, the State’s name or other such references to the State in any document or forum. Publicity regarding this project may not be released without prior written approval from the State.

2. Any publications, presentations or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Master Contract may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

   a) Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency; and

   b) State that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretations or policy of the State or if funded with Federal funds, the applicable Federal funding agency.

3. Notwithstanding the above, (i) if the Contractor is an educational research institution, the Contractor may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other than Confidential Information, that derives from activity under the Master Contract and the Contractor agrees to use best efforts to provide copies of any manuscripts arising from Contractor’s performance under this Master Contract, or if requested by the State, the Contractor shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with Confidential Information requirements; or (ii) if the Contractor is not an educational research institution, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Master Contract (but are not deliverable under the Master Contract), provided that the Contractor first submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section IV(G)(2) (Publicity) hereof.

H. Web-Based Applications-Accessibility: Any web-based intranet and Internet information and applications development, or programming delivered pursuant to the Master Contract or procurement shall comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility
Web-Based Information and Applications, and New York State Enterprise IT Standard NYS-S08-005. Accessibility of Web-Based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that State Agency web-based intranet and Internet information and applications are accessible to person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing shall be conducted by the State Agency and the results of such testing must be satisfactory to the State Agency before web content shall be considered a qualified deliverable under the Master Contract or procurement.

I. Non-Discrimination Requirements: Pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that the Master Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Master Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 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 the Master Contract. The Contractor shall be subject to fines of $50.00 per person per day for any violation of Section 220-e or Section 239 of the Labor Law.

J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises: In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Master Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00, whereby a contracting State Agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting State Agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting State Agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the Contractor certifies and affirms that (i) it is subject to Article 15-A of the Executive Law which includes, but is not limited to, those provisions concerning the maximizing of opportunities for the participation of minority and women-owned business enterprises and (ii) the following provisions shall apply and it is Contractor’s equal employment opportunity policy that:

1. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status;
2. The Contractor shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its workforce on State contracts;

3. The Contractor shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

4. At the request of the State, 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 shall not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative shall affirmatively cooperate in the implementation of the Contractor’s obligations herein; and

5. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants shall 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 subclauses 1 – 5 of this Section (IV)(J), in every subcontract over $25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (Work) except where the Work is for the beneficial use of the Contractor. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to the Master Contract; or (ii) employment outside New York State. The State shall consider compliance by the Contractor or a subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The State 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 State shall 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 hereto.

K. 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.

1. If the total dollar amount of the Master Contract is greater than $1 million, the Omnibus Procurement Act of 1992 requires that by signing the Master Contract, the Contractor certifies the following:

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

d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of the Master Contract and agrees to cooperate with the State in these efforts.

L. Workers' Compensation Benefits:

1. In accordance with Section 142 of the State Finance Law, the Master Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of the Master Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

2. If a Contractor believes they are exempt from the Workers Compensation insurance requirement they must apply for an exemption.

M. Unemployment Insurance Compliance: The Contractor shall remain current in both its quarterly reporting and payment of contributions or payments in lieu of contributions, as applicable, to the State Unemployment Insurance system as a condition of maintaining this grant.

The Contractor hereby authorizes the State Department of Labor to disclose to the State Agency staff only such information as is necessary to determine the Contractor’s compliance with the State Unemployment Insurance Law. This includes, but is not limited to, the following:

1. any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency;

2. any debts owed for UI contributions, interest, and/or penalties;

3. the history and results of any audit or investigation; and

4. copies of wage reporting information.

Such disclosures are protected under Section 537 of the State Labor Law, which makes it a misdemeanor for the recipient of such information to use or disclose the information for any purpose other than the performing due diligence as a part of the approval process for the Master Contract.

N. Vendor Responsibility:

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may
obtain a paper form from the OSC prior to execution of the Master Contract. The Contractor further covenants and represents that as of the date of execution of the Master Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.

2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.

3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor’s business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.

4. The State reserves the right, in its sole discretion, at any time during the term of the Master Contract:
   
   a) to require updates or clarifications to the Questionnaire upon written request;
   
   b) to inquire about information included in or required information omitted from the Questionnaire;
   
   c) to require the Contractor to provide such information to the State within a reasonable timeframe; and
   
   d) to require as a condition precedent to entering into the Master Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and
   
   e) to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Master Contract, the Contractor agrees to comply with any such additional conditions that have been made a part of the Master Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Master Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Master Contract.

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Master Contract based on:
a) any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or

b) the State’s discovery of any material information which pertains to the Contractor’s responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non-responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

O. Charities Registration: If applicable, the Contractor agrees to (i) obtain not-for-profit status, a Federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish the State Agency with this information as soon as it is available, (ii) be in compliance with the OAG charities registration requirements at the time of the awarding of this Master Contract by the State and (iii) remain in compliance with the OAG charities registration requirements throughout the term of the Master Contract.

P. Consultant Disclosure Law: If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

Q. Wage and Hours Provisions: If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor’s employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the 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 Labor Law shall be condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

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9 Not applicable to not-for-profit entities.

Contract Number: #__DEC01-T00480GG-3350000

ATTACHMENT A-1
PROGRAM SPECIFIC TERMS AND CONDITIONS

Standard Clauses for All New York State
Department of Environmental Conservation Contracts

The parties to the attached contract, license, lease, grant, amendment or other agreement of any kind (hereinafter "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract. The word "Contractor" herein refers to any party to the contract, other than the New York State Department of Environmental Conservation (hereinafter "Department").

A) AGENCY SPECIFIC TERMS AND CONDITIONS

I. Postponement, suspension, abandonment or termination by the Department: Within 15 days of receipt of notice, the Contractor shall deliver to the Department all data, reports, plans, or other documentation related to the performance of this contract, including but not limited to source codes and specifications, guarantees, warranties, as-built plans and shop drawings. In any of these events, the Department shall make settlement with the Contractor upon an equitable basis as determined by the Department which shall fix the value of the work which was performed by the Contractor prior to the postponement, suspension, abandonment or termination of this contract. This clause shall not apply to this contract if the contract contains other provisions applicable to postponement, suspension or termination of the contract.

II. Conflict of Interest

(a) Organizational Conflict of Interest - To the best of the Contractor's knowledge and belief, the Contractor warrants that there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as herein defined, or that the Contractor has disclosed all such relevant information to the Department.

(1) An organizational conflict of interest exists when the nature of the work to be performed under this contract may, without some restriction on future activities, impair or appear to impair the Contractor's objectivity in performing the work for the Department.

(2) The Contractor agrees that if an actual, or potential organizational conflict of interest is discovered at any time after award, whether before or during performance, the Contractor will immediately make a full disclosure in writing to the Department. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Department, to avoid, mitigate, or minimize the actual or potential conflict.

(3) To the extent that the work under this contract requires access to personal, proprietary or confidential business or financial data of persons or other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure and agrees not to use it to compete with such companies.

(b) Personal Conflict of Interest - The following provisions with regard to management or professional level employee personnel performing under this contract shall apply until the earlier of the termination date of the affected employee(s) or the duration of the contract.

(1) A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair or appear to impair the objectivity of the employee, subcontractor employee, or consultant in performing the contract work. The Contractor agrees to notify the Department immediately of any actual or potential personal conflict of interest with regard to any such person working on or having access to information regarding this contract, as soon as Contractor becomes aware of such conflict. The Department will notify the Contractor of the appropriate action to be taken.

(2) The Contractor agrees to advise all management or professional level employees involved in the work of this contract, that they must report any personal conflicts of interest to the Contractor. The Contractor must then advise the Department which will advise the Contractor of the appropriate action to be taken.
(3) Unless waived by the Department, the Contractor shall certify annually that, to the best of the Contractor’s knowledge and belief, all actual, apparent or potential conflicts of interest, both personal and organizational, as defined herein, have been reported to the Department. Such certification must be signed by a senior executive of the Contractor and submitted in accordance with instructions provided by the Department. Along with the annual certification, the Contractor shall also submit an update of any changes in any conflict of interest plan submitted with its proposal for this contract. The initial certification shall cover the one-year period from the date of contract award, and all subsequent certifications shall cover successive annual periods thereafter. The certification is to be submitted no later than 45 days after the close of the previous certification period covered.

(4) In performing this contract, the Contractor recognizes that its employees may have access to data, either provided by the Department or first generated during contract performance, of a sensitive nature which should not be released without Department approval. If this situation occurs, the Contractor agrees to obtain confidentiality agreements from all affected employees working on requirements under this contract including subcontractors and consultants. Such agreements shall contain provisions which stipulate that each employee agrees not to disclose, either in whole or in part, to any entity external to the Department, Department of Health or the New York Department of Law, any information or data provided by the Department or first generated by the Contractor under this contract, any site-specific cost information, or any enforcement strategy without first obtaining the written permission of the Department. If a Contractor, through an employee or otherwise, is subpoenaed to testify or produce documents, which could result in such disclosure, the Contractor must provide immediate advance notification to the Department so that the Department can authorize such disclosure or have the opportunity to take action to prevent such disclosure. Such agreements shall be effective for the life of the contract and for a period of five (5) years after completion of the contract.

(c) Remedies - The Department may terminate this contract in whole or in part, if it deems such termination necessary to avoid an organizational or personal conflict of interest, or an unauthorized disclosure of information. If the Contractor fails to make required disclosures or misrepresents relevant information to the Department, the Department may terminate the contract, or pursue such other remedies as may be permitted by the terms of Clause I of this Attachment or other applicable provisions of this contract regarding termination.

(d) The Contractor will be ineligible to make a proposal or bid on a contract for which the Contractor has developed the statement of work or the solicitation package

(e) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder (except for subcontracts or consultant agreements for well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services) provisions which shall conform substantially to the language of this clause, including this paragraph (e), unless otherwise authorized by the Department.

III. Dispute Resolution

The parties agree to the following steps, or as many as are necessary to resolve disputes between the Department and the Contractor.

(a) The Contractor specifically agrees to submit, in the first instance, any dispute relating to this contract to the designated individual, who shall render a written decision and furnish a copy thereof to the Contractor.

(1) The Contractor must request such decision in writing no more than fifteen days after it knew or should have known of the facts which are the basis of the dispute.

(2) The decision of the designated individual shall be the final DEC determination, unless the Contractor files a written appeal of that decision with the designated appeal individual ("DAI") within twenty days of receipt of that decision.

(b) Upon receipt of the written appeal, the DAI, will review the record and decision. Following divisional procedures in effect at that time, the DAI will take one of the following actions, with written notice to the Contractor.

(1) Remand the matter to the program staff for further negotiation or information if it is determined that the matter is not ripe for review; or

(2) Determine that there is no need for further action, and that the determination of the designated individual is confirmed; or

(3) Make a determination on the record as it exists.
(c) The decision of the DAI shall be the final DEC decision unless the Contractor files a written appeal of that decision with the Chair of the Contract Review Committee (“CRC”) within twenty days of receipt of that decision.

The designated individual to hear disputes is:

        Lois New
        Director, Office of Climate Change
        NYS Department of Environmental Conservation
        625 Broadway, 9th Floor
        Albany, NY 12233-1030
        (518) 402-8448

The designated appeal individual to review decisions is:

        Jonathan Binder, Office of General Counsel
        NYS Department of Environmental Conservation
        625 Broadway, 14 Floor
        Albany, NY 12233-1500
        (518) 402-9188

The Chair of the Contract Review Committee is:

        Department of Environmental Conservation
        Nancy W. Lussier, Chair
        Contract Review Committee
        625 Broadway
        Albany, NY 12233-5010
        Telephone: (518) 402-9228

(d) Upon receipt of the written appeal, the Chair of the CRC, in consultation with the members of the CRC and the Office of General Counsel, will take one of the following actions, or a combination thereof, with written notice to the Contractor.

(1) Remand the matter to program staff for additional fact finding, negotiation, or other appropriate action; or

(2) Adopt the decision of the DAI; or

(3) Consider the matter for review by the CRC in accordance with its procedures.

(e) Following a decision to proceed pursuant to (d) 3, above, the Chair of the CRC shall convene a proceeding in accordance with the CRC’s established contract dispute resolution guidelines. The proceeding will provide the Contractor with an opportunity to be heard.

(f) Following a decision pursuant to (d) 2 or (d) 3, the CRC shall make a written recommendation to the Deputy Commissioner for Administration who shall render the final DEC determination.

(g) At any time during the dispute resolution process, and upon mutual agreement of the parties, the Office of Hearings and Mediation Services (OHMS) may be requested to provide mediation services or other appropriate means to assist in resolving the dispute. Any findings or recommendations made by the OHMS will not be binding on either party.

(h) Final DEC determinations shall be subject to review only pursuant to Article 78 of the Civil Practice Law and Rules.

(i) Pending final determination of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract in accordance with the decision of the designated individual. Nothing in this Contract shall be construed as making final the decision of any administrative officer upon a question of law.

(j)(1) Notwithstanding the foregoing, at the option of the Contractor, the following shall be subject to review by the CRC:
Disputes arising under Article 15-A of the Executive Law (Minority and Women Owned Business participation), the Department's determination with respect to the adequacy of the Contractor's Utilization Plan, or the Contractor's showing of good faith efforts to comply therewith. A request for a review before the CRC should be made, in writing, within twenty days of receipt of the Department's determination.

(2) The CRC will promptly convene a review in accordance with Article 15-A of the Executive Law and the regulations promulgated thereunder.

IV. **Tax Exemption**

Pursuant to Tax Law Section 1116, the State is exempt from sales and use taxes. A standard state voucher is sufficient evidence thereof. For federal excise taxes, New York's registration Number 14740026K covers tax-free transactions under the Internal Revenue Code.

V. **Litigation Support**

In the event the Department becomes involved in litigation related to the subject matter of this contract, the Contractor agrees to provide background support and other litigation support, including but not limited to depositions, appearances, and testimony. Any compensation paid to the Contractor under this paragraph will be negotiated and based on the rates established in the contract, or as may otherwise be provided in the contract. No compensation for such support will be paid if the litigation is the result of the Contractor's misconduct, negligence or omissions.

VI. **Inventions or Discoveries**

The Scope of work of this agreement shall not include any inventions. If however, an invention results from this project it shall be owned as follows:

Any invention or discovery first made or conceived and reduced to practice in the performance of this Contract solely by the Contractor shall remain with the Contractor; provided that the Contractor shall grant to the Department and the State a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for on behalf of the Department and the State the subject copyright throughout the world, where the Contractor is able to do so.

Any invention or discovery made or conceived and reduced to practice in the performance of this Contract solely by Department or State shall remain with the State; provided that the Department or State shall grant to the Contractor a nonexclusive, nontransferable, irrevocable, paid-up license to use for non-commercial research, educational, and public service purposes.

Any invention or discovery made or conceived and reduced to practice in the performance of this Contract jointly by Contractor and Department or State in the performance of this work shall be jointly held by the Contractor and Department or State.

VII. **Intellectual Property and Copyright Materials**

(a) Title to, and the right to determine the disposition of any copyrights, or copyrightable material, first produced or created solely by Contractor in the performance of this work shall remain with the Contractor; provided that the Contractor shall grant to the Department and the State a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for on behalf of the Department and the State the subject copyright throughout the world, where the Contractor is able to do so.

Title to, and the right to determine the disposition of any copyrights, or copyrightable material, first produced or created solely by Department or State in the performance of this work shall remain with the State; provided that the Department or State shall grant to the Contractor a nonexclusive, nontransferable, irrevocable, paid-up license to use for non-commercial research, educational, and public service purposes.

Title to, and the right to determine the disposition of any copyrights, or copyrightable material, first produced or created jointly by Contractor and Department or State in the performance of this work shall be jointly held by the Contractor and Department or State.

VIII. **Patent and Copyright Protection**

If any patented or copyrighted material is involved in or results from the performance of this Contract, this Article shall apply.
(a) The Contractor shall, at its expense, defend any suit instituted against the Department and indemnify the Department against any award of damages and costs made against the Department by a final judgment of a court of last resort based on the claim that any of the products, services or consumable supplies furnished by the Contractor under this Contract infringes any patent, copyright or other proprietary right; provided the Department gives the Contractor:

1. prompt written notice of any action, claim or threat of infringement suit, or other suit, and
2. the opportunity to take over, settle or defend such action at the Contractor's sole expense, and
3. all available information, assistance and authority necessary to the action, at the Contractor's sole expense.

The Contractor shall control the defense of any such suit, including appeals, and all negotiations to effect settlement, but shall keep the Department fully informed concerning the progress of the litigation.

(b) If the use of any item(s) or parts thereof is held to infringe a patent or copyright and its use is enjoined, or Contractor believes it will be enjoined, the Contractor shall have the right, at its election and expense to take action in the following order of precedence:

1. procure for the Department the right to continue using the same item or parts thereof;
2. modify the same so that it becomes non-infringing and of at least the same quality and performance;
3. replace the item(s) or parts thereof with noninfringing items of at least the same quality and performance;
4. if none of the above remedies are available, discontinue its use and eliminate any future charges or royalties pertaining thereto. The Contractor will buy back the infringing product(s) at the State's book value, or in the event of a lease, the parties shall terminate the lease. If discontinuation or elimination results in the Contractor not being able to perform the Contract, the Contract shall be terminated.

(c) In the event that an action at law or in equity is commenced against the Department arising out of a claim that the Department's use of any item or material pursuant to or resulting from this Contract infringes any patent, copyright or proprietary right, and such action is forwarded by the Department to the Contractor for defense and indemnification pursuant to this Article, the Department shall copy all pleadings and documents forwarded to the Contractor together with the forwarding correspondence and a copy of this Contract to the Office of the Attorney General of the State of New York. If upon receipt of such request for defense, or at any time thereafter, the Contractor is of the opinion that the allegations in such action, in whole or in part, are not covered by the indemnification set forth in this Article, the Contractor shall immediately notify the Department and the Office of the Attorney General of the State of New York in writing and shall specify to what extent the Contractor believes it is and is not obligated to defend and indemnify under the terms and conditions of this Contract. The Contractor shall in such event protect the interests of the Department and State of New York and secure a continuance to permit the State of New York to appear and defend its interests in cooperation with Contractor as is appropriate, including any jurisdictional defenses which the Department and State shall have.

(d) The Contractor shall, however, have no liability to the Department under this Article if any infringement is based upon or arises out of:

1. compliance with designs, plans, or specifications furnished by or on behalf of the Department as to the items;
2. alterations of the items by the Department;
3. failure of the Department to use updated items provided by the Contractor for avoiding infringement;
4. use of items in combination with apparatus or devices not delivered by the Contractor;
5. use of items in a manner for which the same were neither designed nor contemplated; or
6. a patent or copyright in which the Department or any affiliate or subsidiary of the Department has any direct or indirect interest by license or otherwise.
The foregoing states the Contractor's entire liability for, or resulting from, patent or copyright infringement or claim thereof.

IX. Freedom of Information Requests
In response to a Freedom of Information Law (FOIL) request received by the Department, the Contractor agrees to provide to the Department records generated by the Contractor as a result of this contract's scope of work that are responsive to the FOIL request. The contractor may request that the Department except from disclosure records on the basis that they contain trade secrets or confidential commercial information in accordance with FOIL (Public Officers Law Section 87 and 6 NYCRR Part 616).

X. Article 15-Requirements

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

(a) General Provisions

(1) The Department is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of $25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of $100,000 for real property renovations and construction.

(2) The Contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Department (the “Department”), to fully comply and cooperate with the Department in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws.

(3) Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Article or enforcement proceedings as allowed by the Contract.

(b) Contract Goals

(1) For purposes of this procurement, the Department hereby establishes an overall goal of 0% for Minority and Women-Owned Business Enterprises (“MWBE”) participation, (based on the current availability of qualified MBEs and WBEs).

(2) For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MWBEs found at the following internet address; https://ny.newnycontracts.com.

Additionally, the Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

(3) Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the Department for liquidated or other appropriate damages, as set forth herein.

(c) Equal Employment Opportunity (EEO)

(1) Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the State of Economic Development (the “Division”). If
any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements. Contractor shall comply with the following provisions of Article 15-A:

(i) Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(ii) The Contractor shall submit an EEO policy statement to the Department within seventy two (72) hours after the date of the notice by Department to award the Contract to the Contractor.

(iii) If Contractor or Subcontractor does not have an existing EEO policy statement, the Department may provide the Contractor or Subcontractor a model statement. This statement can be found at the link provided in Section 8.

(iv) The Contractor’s EEO policy statement shall include the following language:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the 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.

c. The Contractor shall request each employer Department, 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 employer Department, 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.

d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph “E” of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

e. EEO Contract Goals for the purposes of this procurement, the Department hereby establishes a goal of 0% Minority Labor Force Participation, 0% Female Labor Force Participation.

(2) Staffing Plan Form

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan as part of the MWBE Utilization Plan and submit at the time of award of the contract.

(3) Workforce Employment Utilization Report Form (“Workforce Report”) 

(i) Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the Department of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the Contract to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

(ii) Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.
(iii) In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the Contract.

(4) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(d) MWBE Utilization Plan
(1) The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan either prior to, or at the time of, the execution of the contract.

(2) Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section X-B-1 of this Attachment.

(3) Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, Department shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

(e) Waivers
(1) For Waiver Requests Contractor should use Waiver Request Form.

(2) If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the Department shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

(3) If the Department, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the Department may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

(f) Quarterly MWBE Contractor Compliance Report
Contractor is required to submit a Quarterly MWBE Contractor Compliance Report Form to the Department by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

(g) Liquidated Damages - MWBE Participation
(1) Where Department determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the Department liquidated damages.

(2) Such liquidated damages shall be calculated as an amount equaling the difference between:

   (i) All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
   (ii) All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

(3) In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the Department, Contractor shall pay such liquidated damages to the Department within sixty (60) days after they are assessed by the Department unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the Department.
XI. Iran Divestment Act Requirements
By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

XII. Americans With Disabilities Act
In the event the monies defined herein are to be used for the development of facilities, outdoor recreation areas, transportation or written or spoken communication with the public, the Contractor shall comply with all requirements for providing access for individuals with disabilities as established by Article 4A of the New York State Public Buildings Law, Americans with Disabilities Act, and relevant sections of the New York State Uniform Fire Prevention and Building Code. Standards for certain Recreation Facilities are found in the 2010 ADA Standards for Accessible Design while others are found in the Architectural Barriers Act Accessibility Guidelines for Outdoor Recreation Areas, https://www.access-board.gov/guidelines-and-standards

XIII. Public Access to Facilities
If applicable to the project, the Contractor agrees to allow public access to any facilities developed with monies defined herein on the same basis to all residents of New York State for a period not less than five (5) years after the date of final payment under this Contract or five (5) years after the date that the final payment was due. Failure to comply with the provisions of this clause shall be considered an abandonment of the Project.

XIV. Project Insurance Considerations
Refer to project insurance requirements as set forth in A-1 (B) Program Specific Terms and Conditions.

XV. Amendment/Extensions
The Contract may be amended and/or extended by mutual written consent of all parties. Amendment forms will be incorporated into this Contract and will not take effect until approved by all applicable State agencies and final approval by the Office of the State Comptroller, if applicable. Contract amendments may be conditioned upon funds being re-appropriated in the State Budget each state fiscal year to the Department.

XVI. Environmental Protection Fund Acknowledgement
If applicable, in recognition of a portion of the Department funds utilized for any work completed under this Contract, the Contractor agrees to acknowledge in any communication to the public, that such funding was provided from the Environmental Protection Fund as administered by the New York State Department of Environmental Conservation.
XVII. Vendor Responsibility
A. The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

B. The Department recommends that vendors file a required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at http://www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at https://portal.osc.state.ny.us.

C. Vendors must provide their New York State Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller’s Help Desk at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us. Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Department of the Office of the State Comptroller’s Help Desk for a copy of the paper form.

D. Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Department officials or staff, the Contract may be terminated by the Commissioner or his or her designee at the Contractor’s expense where the Contractor is determined by the Commissioner or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

XVIII. Permits
A. If applicable, the Contractor agrees to obtain all required permits, including but not limited to, local, state and federal permits prior to the commencement of any project related work. The Contractor agrees that all work performed in relation to the project by the Contractor or its agents, representatives, or contractors will comply with all relevant federal, state and local laws, rules, regulations and standards, zoning and building codes, ordinances, operating certificates for facilities, or licenses for an activity.

B. With respect to the project, the contractor certifies that it has complied, and shall continue to comply with all requirements of the State Environmental Quality Review Act (SEQRA). The Contractor agrees to provide all environmental documents as may be required by the Department. The Contractor has notified, and shall continue to notify, the Department of all actions proposed for complying with the environmental review requirements imposed by SEQRA.

XIX. Approvals
The Contractor agrees that the project will be performed in accordance with the condition of any applicable administrative, judicial or governmental orders or approvals.

XX. Site Access
If applicable, the Contractor represents it has or will obtain title to or sufficient interest in the project site, including rights-of-way and necessary easements, before the start of the project to ensure undisturbed use and possession for purposes of construction and completion of the project, as well as operation of the project throughout its useful life.

XXI. Cost Overruns
If applicable, any cost overruns will not be paid by the Department and the Department is not committed to seeking additional appropriations or re-appropriation of funds and will not be responsible for the maintenance and operation of any facility which may be developed or equipment which may be purchased with the funds herein identified.

XXII. Construction Plans
It is the Contractor’s responsibility (if applicable to the Project) to have all construction contract plans, specifications and cost estimates certified by a professional engineer licensed to practice in the State of New York. All certified plans and specifications shall become part of this Contract and shall be kept on the project site at all times.

XXIII. Payment and Reporting
A. The Contractor agrees to fully fund the Project and then seek reimbursement from the Department for eligible project costs. The Department will not process final payment for this Contract, until the Department determines that the project
was completed satisfactorily and upon receipt of all required final close-out payment documentation in accordance with the direction and requirements described in Attachment D.

B. The Contractor will be entitled to receive reimbursement payments for work, projects, and/or services rendered as detailed and described in Attachment C and Attachment D of this Contract. Claims for reimbursement must be accompanied by such receipts and documents verifying expenditures as may be required by the Department and by the Comptroller. Satisfactory documentation shall include, but is not limited to, signed copies of payment vouchers or invoices, canceled checks/or the latest cumulative work-in-place estimate for each construction Contract, and any further documentation as may be required by the Department and/or the Comptroller. The Department reserves the right, in its sole discretion, to determine if the reimbursement request and accompanying documentation submitted by the Contractor is in satisfactory form and substance. A final payment determination will be based upon the Department’s review of the Contractor’s final voucher submission and reporting as described in Attachment D.

XXIV. On-Site Inspections
The State, Department or authorized representatives will conduct a review of the Project funded from this Contract, which may include on-site inspections, at a time that is satisfactory to the Department.

XXV. Prohibition on Purchase of Tropical Hardwoods
The Contractor certifies and warrants that all wood products to be sued under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State of any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

B) PROGRAM SPECIFIC TERMS AND CONDITIONS Climate Smart Communities

I. Local Share Requirements
For all Climate Smart Communities Projects, including Climate Protection Implementation Projects and Climate Smart Communities Certification Projects, the Department share will not exceed fifty percent (50%) of the approved project costs, up to the Contract Funding Amount identified on the Face Page, and the Contractor must provide fifty percent (50%) of required eligible share with eligible costs not paid with state grant funds nor federal funds. This percentage will be specified in the Attachment B-1 (Expenditure Budget).

II. Construction
(a) The Contractor agrees to proceed expeditiously with the Project and shall complete the Project in accordance with the performance measures set forth in Attachment C (Work Plan) or any amendments to such Work Plan which are approved by the Department in writing.
(b) The Contractor agrees that it shall notify the Department in writing thirty (30) calendar days prior to the start of construction or, if the start of construction began on or after May 1, 2017, upon approval of the Contract the Contractor shall notify the Department in writing within thirty (30) calendar days as to the status of any construction.
(c) The Contractor agrees that it shall notify the Department in writing thirty (30) days following initial start-up operation of the Project.
(d) The Contractor agrees that it shall cause the Project to be designed and constructed in accordance with the engineering report or facilities plan, and if applicable to the project, the plans and specifications for the Project shall be stamped with the seal of a licensed professional engineer and shall be signed with the personal signature of such engineer in compliance with Education Law §7209(1) and (2), and which have been delivered to and approved by the Department, as well as any amendments thereto.
(e) The Contractor agrees that it shall permit the Department to participate in all its meetings and conferences with respect to the Project. Upon request from the Department, the Contractor must submit to the Department reports, documents, data, contractual documents, administrative records, and other information pertinent to the Project.
(f) The Contractor agrees to permit representatives of the Department to have unrestricted access to the Project at all reasonable times, and all contracts of the Contractor for construction or operation of all or a portion of the Project shall contain provisions that permit such access to the Project or work relating to the Project, wherever it is in preparation or progress, and that contractors or subcontractors shall provide proper facilities for such access and inspection and shall permit extracts and copies of Project records to be made by the representatives of the Department.

III. Engineering Certification/As-built Plans
Within sixty (60) calendar days after the end of the Contract Term, or upon final completion of the Project, the Contractor agrees that it will deliver the following to the Department:
(a) A certification stating that the Project has been completed in accordance with this Contract, and constructed per the approved plans and specifications, and any approved amendments thereto.
(b) The certified “as built” plans and specifications for the Project. Any work not in accordance with the approved plans and specifications shall be remedied, unless such non-compliance is agreed to be waived by the Department.
(c) The Contractor shall retain all as-built plans and specifications for the Project for the useful life of the Project.

IV. Useful Life of Project
The Contractor agrees that it is fully responsible for ensuring the proper and efficient monitoring, operation and maintenance of the Project satisfactory to the Department, including, but not limited, to retaining a sufficient number of qualified staff and ensuring performance of required tests and requirements. After completion of the Project, the Contractor shall, for a period of thirty (30) years unless another period of time is specified in the attached Work Plan (the useful life of the Project as provided in the State Finance Law §61[i]), operate the Project or otherwise cause the Project to be operated properly in a sound and economical manner and shall maintain, preserve and keep the Project, or cause the Project to be maintained, preserved and kept, in good repair, working order and condition and shall make, or cause to be made, all necessary and proper repairs, replacements and renewals from time to time, so that at all times the Project may be operated properly in a manner consistent with the Project performance standards contained in the engineering report of facilities plan for the Project, with this Contract and with the requirements of any related permit or other governmental approval of the Project.

V. Notifications
The Department’s authorized representative for the implementation of this Contract and for approval, direction, and receipt of all Project reports called for in this Contract is identified below. Whenever it is provided in this Contract that notice must be given or other communications sent to the Department, the notices or communications must be in writing and delivered or sent to the Department’s authorized representative at:

Address: Office of Climate Change
New York State Department of Environmental Conservation
625 Broadway – 9th Floor
Albany, New York, 12233-1030
Tel. No.: (518) 402-8448

A copy of all legal notices shall be sent to:
General Counsel
New York State Department of Environmental Conservation
625 Broadway - 14th Floor
Albany, New York, 12233-1500

The Contractor’s authorized representative for the implementation of this Contract is the person authorized in the Resolution of Support for the contract submitted by the Contractor. Notices or communications regarding this Contract should be in writing and delivered or sent to the Contractor’s authorized representative at the address identified on the Face Page, with copies sent to the Contractor’s contract administrator as identified in the contract application.

VI. Eligible Costs
Only those eligible project related costs incurred on or after May 1, 2017 will be eligible for reimbursement of grant funding.

VII. Climate Smart Communities Program Requirements
(a) If the Contractor is not already a registered Climate Smart Community, the Contractor shall take the Climate Smart
Communities Pledge within the term of this Contract.

(b) For climate mitigation projects, including the Clean Transportation and/or Reduction and Recycling of Food Waste categories, the Contractor shall provide a report of estimates of emissions reduction as required by the Department.

(c) For certification actions funded in the Climate Smart Communities Certification Project category, the Contractor shall adhere to the requirements and standards described in the Climate Smart Communities Certification Manual. The Climate Smart Communities Certification Manual is available on the Office of Climate Change web site at http://www.dec.ny.gov/energy/96511.html.

(d) If the Contractor develops, improves, restores or rehabilitates real property that is not owned by the Contractor as part of the work of this Contract, the Contractor shall obtain a climate change mitigation easement from the owner of the real property. Climate change mitigation easements shall be enforced as conservation easements are enforced in ECL section 49-0305.

VIII. **Lead Applicant Self-Certification**

For projects that involve more than one municipality or partner, the lead applicant must certify that an agreement or a signed commitment exists between the Lead Applicant and each participating partner stating the participating partner’s commitment and willingness to deliver each output attributed to them in the contract work plan.

IX. **Project Insurance Considerations**

The Contractor agrees to procure and maintain at its own expense and without expense to the Department until final acceptance by the Department of the services covered by this Contract, insurance of the kinds and amounts as determined by the Department and based upon the project work plan. The insurance policies should be provided by insurance companies licensed to do business in the State of New York. Any delay or time lost as a result of the Contractor not having insurance required by the Contract shall not give rise to a delay claim or any other claim against the Department. Upon execution of this Contract, the Contractor shall furnish to the Department a certificate or certificates, satisfactory to the Department, showing that it has complied with this Article. The insurance documentation shall provide that:

- Liability and protective liability insurance policies shall provide primary and non-contributory coverage to the NYS Department of Environmental Conservation for any claims arising from the Contractor’s Work under this contract, or as a result of Contractor’s activities. The State of New York, NYS Department of Environmental Conservation, its officers, agents and employees, 625 Broadway Albany, New York 12233-1030 shall be listed as Certificate Holder on all liability insurance certificate(s), as additional insureds on endorsements(s) and on additional supporting documentation.

  The policies shall include a waiver of subrogation endorsement in favor of the Department as an additional insured. The endorsement shall be on ISO Form Number CG 24 04 or a similar form with same modification to the policy. Policies shall not be changed or canceled until thirty (30) days prior written notice has been given to the Department; as evidenced by an endorsement or declarations page.

  Insurance documentation shall disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by the Contract.

  Endorsements in writing must be added to and made part of the insurance contract for the purpose of changing the original terms to reflect the revisions and additions as described. A copy of these endorsements must be provided to the Department within a reasonable amount of time.

  Applicable insurance policy number(s) reference on the ACORD form must be referenced in the supporting documentation requested by the Department and supplied by the insurance company (e.g. endorsement page, declarations page, etc.).

This Contract shall be void and of no effect unless the Contractor procures the required insurance policies and maintains them until completion of the work or acceptance by the Department, whichever event is later.

The kinds and amounts of insurance required are as follows:

A. Workers’ Compensation coverage must be provided for work to be performed in New York State. The Contractor shall provide and maintain full New York State coverage during the life of this contract for the benefit of such employees as are required to be covered by the New York State Workers’ Compensation Law.

Evidence of Workers’ Compensation and Employers Liability coverage must be provided on one of the following forms specified by the Chairman of the New York State Workers’ Compensation Board:
<table>
<thead>
<tr>
<th>FORM #</th>
<th>FORM TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>C-105.2</td>
<td>Certificate of Workers’ Compensation Insurance</td>
</tr>
<tr>
<td>U-26.3</td>
<td>State Insurance Fund Version of the C-105.2 form</td>
</tr>
<tr>
<td>SI-12/GSI-105.2</td>
<td>Certificate of Workers’ Compensation Self-Insurance</td>
</tr>
<tr>
<td>CE-200</td>
<td>Certificate of Attestation of Exemption – (no employees)</td>
</tr>
</tbody>
</table>

B. Disability Benefits coverage must be provided for work to be performed in New York State. The Contractor shall provide and maintain coverage during the life of the contract for the benefit of such employees as are required to be covered by the New York State Disability Benefits Law. Any waiver of this requirement must be approved by the Department of Environmental Conservation and will only be granted in unique or unusual circumstances.

Evidence of Disability Benefits coverage must be provided on one of the following forms specified by the Chairman of the New York State Workers’ Compensation Board:

<table>
<thead>
<tr>
<th>FORM #</th>
<th>FORM TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>DB-120.1</td>
<td>Certificate of Disability Benefit Insurance</td>
</tr>
<tr>
<td>DB-155</td>
<td>Certificate of Disability Benefit Self-Insurance</td>
</tr>
<tr>
<td>CE-200</td>
<td>Certificate of Attestation of Exemption – (no employees)</td>
</tr>
</tbody>
</table>


Additional information can be obtained at the Worker’s Compensation website: http://www.wcb.ny.gov/content/main/Employers/Employers.jsp

Upon review of the scope of work outlined in the Grant Application by the Department, the following types of liability insurance may be required:

C. Commercial General Liability Insurance with a limit of not less than $2,000,000 each occurrence, and $5,000,000 General aggregate. Such insurance shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal and advertising injury, cross liability assumed in a contract (including tort liability of another assumed in a contract). Limits may be provided through a combination of primary and umbrella/excess liability policies. The CGL aggregate shall be endorsed to apply on a per project basis for construction contracts.

D. Business Automobile Liability with a limit of not less than $1,000,000 each accident. Such insurance shall cover liability arising out of any registered motor vehicle including owned, leased, hired and non-owned vehicles. If the Contractor does not own, rent or lease any registered vehicles and will not be using any vehicles on State Land proof of Business Automobile Liability Insurance shall not be required for this Contract. The Contractor shall assume full responsibility and liability that owners and operators of any registered vehicles entering State Land to conduct work under this contract carry the same Business Automobile Liability Insurance of the kinds and amounts listed above. NYS Department of Environmental Conservation reserves the right to request proof of the same.

E. Environmental Liability with a limit of not less than $1,000,000 providing primary coverage for bodily injury and property damage, including loss of use of damaged property or of property that has not been physically injured. Such policy shall provide coverage for actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of pollutants, including any loss, cost or expense incurred as a result of any cleanup of pollutants or in the investigation, settlement or defense of any claim, suit, or proceedings against the Department of Environmental Conservation arising from the Contractor’s Work.

F. Professional Liability Insurance includes coverage for its negligent act, error or omission in rendering or failing to render professional services required by this contract arising out of specifications, installation, modification, abatement, replacement or approval of products, materials or processes containing pollutants, and the failure to advise of or detect the existence or the proportions of pollutants. The Contractor, any subcontractor or supplier retained by the Contractor to work on the contract shall procure and maintain during and for a period of three (3) years after completion of
this contract, Professional Liability Insurance in the amount of $1,000,000. The professional liability insurance may be issued on a claims-made policy form, in which case the Contractor shall purchase at its sole expense, extended Discovery Clause coverage of up to three (3) years after work is completed if coverage is cancelled or not renewed.

G. Marine Protection & Indemnity: Anytime the activity involves work on navigable water or the work is connected to water related activities, the Contractor shall procure Marine Protection & Indemnity and Hull and Machinery coverage, if available. Hull and Machinery coverage shall be provided for the total value of the watercraft or equipment. The Contractor shall obtain Protective and Indemnity Liability insurance for all marine operations under the contract, with a minimum $2,000,000 limit.

Should the Contractor engage a subcontractor, the Contractor shall impose the insurance requirements of this document on the subcontractor. Contractor shall determine the required insurance types and limits, commensurate with the work of the Subcontractor. The Contractor will maintain the certificate or certificates and endorsements for all subcontractors hired as part of the Contractor’s records.
ATTACHMENT 4:

Title VI/Nondiscrimination Assurances
Standard Title VI/Non-Discrimination Assurances  
APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations**: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination**: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment**: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. **Information and Reports**: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the NYSDOT or USDOT to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the NYSDOT or USDOT, as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the NYSDOT or USDOT may determine to be appropriate, including, but not limited to:
   a. withholding payments to the contractor under the contract until the contractor complies; and/or
   b. cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the NYSDOT or USDOT may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.
Standard Title VI/Non-Discrimination Assurances
APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

• Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.

• The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601 ), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

• Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);


• The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);

• Airport and Airway Improvement Act of 1982, (49 USC § 4 71, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

• The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
• Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;

• The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

• Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

• Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

• Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U .S.C. 1681 et seq).
ATTACHMENT 5:

Statement of Vendor Qualifications Form
# STATEMENT OF VENDOR QUALIFICATIONS

## BUSINESS ENTITY INFORMATION

<table>
<thead>
<tr>
<th>Legal Business Name</th>
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<tr>
<th>Address of the Principal Place of Business (street, city, state, ZIP)</th>
<th>New York State Vendor Identification Number</th>
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<td>Telephone</td>
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<td>Website</td>
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### Authorized Contact for this Questionnaire

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<th>Name</th>
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<th>Fax</th>
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<tbody>
<tr>
<td>Title</td>
<td>Email</td>
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**Please note:** Persons or firms submitting bids must be engaged in the lines of work required in these specifications, or shall be able to refer to work of similar character performed by them. Proposers must present satisfactory evidence of experience, ability, and financial standing, and also a statement as to their plant and machinery.

*Additional Business Entity Identities: If applicable, list any other DBA, Trade Name, Former Name, Other Identity, or EIN used in the last five (5) years, the state and county where filed, and the status (active or inactive).*

<table>
<thead>
<tr>
<th>Type</th>
<th>Name</th>
<th>EIN</th>
<th>State or County where filed</th>
<th>Status</th>
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## I. BUSINESS CHARACTERISTICS

### 1.0 Business Entity Type – Check appropriate box and provide additional information:

<table>
<thead>
<tr>
<th></th>
<th>Date of Incorporation</th>
<th>Date Organized</th>
<th>Date of Registration</th>
<th>Date Established</th>
<th>How many years in business?</th>
<th>Date Established</th>
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<tbody>
<tr>
<td>a)</td>
<td>[ ] Corporation</td>
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<td>b)</td>
<td>[ ] Public Corporation</td>
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<tr>
<td>c)</td>
<td>[ ] Sub-chapter &quot;S&quot; Corporation</td>
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<td>d)</td>
<td>[ ] Limited Liability Company (LLC or PLLC)</td>
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<tr>
<td>e)</td>
<td>[ ] Limited Liability Partnership</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>f)</td>
<td>[ ] Limited Partnership</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>g)</td>
<td>[ ] General Partnership</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>h)</td>
<td>[ ] Sole Proprietor</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>i)</td>
<td>[ ] Other</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

If Other, explain:

---

The Contractor’s federal employer identification number is: ______________________

DUNS Number: ________________________________________________________________

### 1.1 Was the Business Entity formed in New York State?  
[ ] Yes  [ ] No

If “No,” indicate jurisdiction where the Business Entity was formed:

<table>
<thead>
<tr>
<th></th>
<th>State</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ ] United States</td>
<td></td>
</tr>
<tr>
<td>[ ] Other</td>
<td>Country</td>
</tr>
</tbody>
</table>

### 1.2 If the Legal Business Entity’s Principal Place of Business is not in New York State, does the Legal Business Entity maintain an office in New York State? (Select N/A if Principal Place of Business is in New York State.)

[ ] Yes  [ ] No  [ ] N/A

If “Yes,” provide the address and telephone number for one office located in New York State.
1. **BUSINESS CHARACTERISTICS (continued)**

1.3 Is the Legal Business Entity a New York State certified Minority-Owned Business Enterprise (MBE), Women-Owned Business Enterprise (WBE), New York State Small Business (SB), or a federally certified Disadvantaged Business Enterprise (DBE)?

   If “Yes,” check all that apply:
   - [ ] New York State certified Minority-Owned Business (MBE)
   - [ ] New York State certified Women-Owned Business Enterprise (WBE)
   - [ ] New York State Small Business (SB)
   - [ ] Federally certified Disadvantaged Business Enterprise (DBE)

1.4 Identify Officers and Principal Owners, if applicable. For each person, include name, title, and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional.

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Percentage of Ownership (Enter 0% if not applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
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</tbody>
</table>

3
2. **LEADERSHIP INTEGRITY**

   *Within the past five (5) years, has any current or former reporting entity official or any individual currently or formerly having the authority to sign, execute, or approve bids, proposals, contracts, or supporting documentation on behalf of the reporting entity with any government entity been:*

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2.0 <strong>Sanctioned</strong> relative to any business or professional permit and or license?</td>
<td>[ ] Yes [ ] No [ ] Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.1 <strong>Suspended, debarred, or disqualified</strong> from any <strong>government-contracting process</strong>?</td>
<td>[ ] Yes [ ] No [ ] Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.2 The subject of an <strong>investigation</strong>, whether open or closed, by any <strong>government entity</strong> that resulted in findings of civil or criminal violation for any business-related conduct?</td>
<td>[ ] Yes [ ] No [ ] Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.3 Indicted, granted immunity, or convicted of a felony or misdemeanor crime, or subject to a judgment for:</td>
<td>[ ] Yes [ ] No [ ] Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>a. Any business-related activity; or</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b. Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

For each “Yes” or “Other” explain:
### 3. INTEGRITY – CONTRACT BIDDING

*Within the past five (5) years, has the reporting entity:*

| 3.0 | Been suspended or debarred from any government-contracting process or been disqualified on any government procurement, permit, license, concession, franchise or lease, including but not limited to, debarment for violation of New York State Workers’ Compensation or Prevailing Wage laws, or New York State Procurement Lobbying Law? | [ ] Yes [ ] No |
| 3.1 | Been subject to a denial or revocation of a government prequalification? | [ ] Yes [ ] No |
| 3.2 | Been denied a contract award or had a bid rejected based upon a non-responsibility finding by a government entity? | [ ] Yes [ ] No |
| 3.3 | Had a low bid rejected on a government contract for failure to make good-faith efforts on any Minority-Owned Business Enterprise, Women-Owned Business Enterprise, or Disadvantaged Business Enterprise goal or statutory affirmative-action requirements on a previously held contract? | [ ] Yes [ ] No |
| 3.4 | Agreed to a voluntary exclusion from bidding/contracting with a government entity? | [ ] Yes [ ] No |
| 3.5 | Initiated a request to withdraw a bid submitted to a government entity in lieu of responding to an information request or subsequent to a formal request to appear before the government entity? | [ ] Yes [ ] No |

For each “Yes” explain:
<table>
<thead>
<tr>
<th></th>
<th>INTEGRITY – CONTRACT AWARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.0</td>
<td><strong>Within the past five (5) years, has the reporting entity:</strong></td>
</tr>
<tr>
<td>4.0</td>
<td>Been <strong>suspended</strong> or <strong>terminated for cause</strong> on any <strong>government contract</strong> including, but not limited to, a <strong>non-responsibility finding</strong>? [ ] Yes [ ] No</td>
</tr>
<tr>
<td>4.1</td>
<td>Been subject to an <strong>administration proceeding</strong> or civil action seeking specific performance or restitution in connection with any <strong>government entity</strong>? [ ] Yes [ ] No</td>
</tr>
<tr>
<td>4.2</td>
<td>Entered into a formal monitoring agreement as a condition of a contract award from a <strong>government entity</strong>?</td>
</tr>
</tbody>
</table>

For each “Yes,” explain:
### 5. Certifications/Licenses

**Within the past five (5) years, has the reporting entity:**

<table>
<thead>
<tr>
<th>Question</th>
<th>[ ] Yes</th>
<th>[ ] No</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.0 Had a revocation, suspension, or disbarment of any business or professional permit and/or license?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.1 Had a denial, decertification, revocation, or forfeiture of New York State certification of Minority Owned Business Enterprise, Women-Owned Business Enterprise, or federal certification of Disadvantaged Business Enterprise status for other than change of ownership?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

For each “Yes,” explain and be sure to attach all relevant licenses and certifications related to this bid, regardless of whether or not there has a problem:

### 5.2 Does the Reporting Entity carry the following insurances:

- [ ] Yes  [ ] No  
  - Workers Compensation
- [ ] Yes  [ ] No  
  - Disability Benefits Insurance
- [ ] Yes  [ ] No  
  - General Liability
- [ ] Yes  [ ] No  
  - Comprehensive Automobile Liability

### 5.3 Attach any and all related insurance certificates appropriate to the services offered (i.e.: professional malpractice, workers compensation, property coverage, general liability, data breach, etc.) and/or as requested by the purchasing office.
### 6. LEGAL PROCEEDINGS

*Within the past five (5) years, has the reporting entity:*

<p>| | | | | |</p>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>6.0</strong></td>
<td>Been the subject of an investigation, whether open or closed, by any government entity for a civil or criminal violation?</td>
<td>[ ] Yes</td>
<td>[ ] No</td>
<td></td>
</tr>
<tr>
<td><strong>6.1</strong></td>
<td>Been the subject of an indictment, grant of immunity, judgment, or conviction (including entering into a plea bargain) for conduct constituting a crime?</td>
<td>[ ] Yes</td>
<td>[ ] No</td>
<td></td>
</tr>
<tr>
<td><strong>6.2</strong></td>
<td>Received an OSHA citation and Notification of Penalty containing a violation classified as serious or willful?</td>
<td>[ ] Yes</td>
<td>[ ] No</td>
<td></td>
</tr>
<tr>
<td><strong>6.3</strong></td>
<td>Had a government entity find a willful prevailing-wage or supplemental-payment violation or any other willful violation of New York State Labor Law?</td>
<td>[ ] Yes</td>
<td>[ ] No</td>
<td></td>
</tr>
<tr>
<td><strong>6.4</strong></td>
<td>Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any government entity involving a violation of federal, state, or local environmental laws?</td>
<td>[ ] Yes</td>
<td>[ ] No</td>
<td></td>
</tr>
<tr>
<td><strong>6.5</strong></td>
<td>Other than previously disclosed: a) Been subject to fines or penalties imposed by government entities, which in the aggregate total $25,000 or more, or; b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any governmental entity?</td>
<td>[ ] Yes</td>
<td>[ ] No</td>
<td></td>
</tr>
</tbody>
</table>

For each “Yes,” explain:
<table>
<thead>
<tr>
<th>Section</th>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.0</td>
<td>Within the past five (5) years has the Reporting Entity received any formal unsatisfactory-performance assessment(s) from any government entity on any contract?</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
<tr>
<td></td>
<td>If “Yes,” provide and explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.1</td>
<td>Within the past five (5) years, has the Reporting Entity had any liquidated damages assessed over $25,000?</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
<tr>
<td></td>
<td>If “Yes,” provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed, and the current state of the issue(s). Provide answer below or attach additional sheets with numbered responses.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.2</td>
<td>Within the past five (5) years, have any liens or judgments (not including UCC filings) over $25,000 been filed against the Reporting Entity that remain undischarged?</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
<tr>
<td></td>
<td>If “Yes,” provide and explanation of the issue(s), relevant dates, the Lien Holder or Claimant’s names(s), the amount of the lien(s), and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.3</td>
<td>In the last seven (7) years, has the Reporting Entity initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
<tr>
<td></td>
<td>If “Yes,” provide the bankruptcy chapter number, the court name, and the docket number. Indicate the current status of the proceedings as “Initiated,” “Pending,” or “Closed.” Provide answer below or attach additional sheets with numbered responses.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 7. FINANCIAL AND ORGANIZATIONAL CAPACITY (continued)

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.4 During the past three (3) years, has the Reporting Entity failed to file any tax returns required by federal, state, or local laws?</td>
<td>[ ] Yes</td>
<td>[ ] No</td>
</tr>
<tr>
<td>If “Yes,” provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the Reporting Entity failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.5 During the past three (3) years, has the Reporting Entity failed to file any New York State unemployment insurance returns?</td>
<td>[ ] Yes</td>
<td>[ ] No</td>
</tr>
<tr>
<td>If “Yes,” provide the years the Reporting Entity failed to file/pay the insurance, explain the situation and any remedial or corrective action(s) taken, and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.6 During the past three (3) years, has the Reporting Entity had any government audit(s) completed?</td>
<td>[ ] Yes</td>
<td>[ ] No</td>
</tr>
<tr>
<td>a) If “Yes,” did any audit of the Reporting Entity identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contracts or grant agreements, significant abuse, or any material disallowance?</td>
<td>[ ] Yes</td>
<td>[ ] No</td>
</tr>
<tr>
<td>If “Yes,” to 7.6 a), provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken, and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 8. ASSOCIATED ENTITIES

*This section pertains to any entity(ies) that either control, or is controlled by, the reporting entity.*

8.0 Does the Reporting Entity have any Associated Entities?  
Note: All questions in this section must be answered if the Reporting Entity is either:  
- An Organizational Unit; or  
- The entire Legal Business Entity that controls, or is controlled by, any other entity(ies).

If "No," SKIP THE REMAINDER OF SECTION 8.

<table>
<thead>
<tr>
<th>[ ] Yes</th>
<th>[ ] No</th>
</tr>
</thead>
</table>

8.1 Within the past five (5) years, has any Associated Entity Official or Principal Owner been charged with a misdemeanor or felony, been indicted, granted immunity, convicted of a crime, or subject to a judgment for:  
- Any business-related activity; or  
- Any crime, whether or not business related, the underlying conduct of which was related to truthfulness?

If "Yes," provide an explanation of the issue(s), the individual involved, his/her role in the Associated Entity, his/her relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken, and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

<table>
<thead>
<tr>
<th>[ ] Yes</th>
<th>[ ] No</th>
</tr>
</thead>
</table>

8.2 Does any Associated Entity have any currently undischarged Federal, New York State, New York City, or other New York local government liens or judgments (not including UCC filings) over $50,000?

If "Yes," provide an explanation of the issue(s), identify the Associated Entity's name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the lien holder or claimant's name(s), the amount of the lien(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

<table>
<thead>
<tr>
<th>[ ] Yes</th>
<th>[ ] No</th>
</tr>
</thead>
</table>

11
8. ASSOCIATED ENTITIES (continued)

8.3 Within the past five (5) years, has any Associated Entity:

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a)</td>
<td>Been <strong>disqualified</strong>, <strong>suspended</strong>, or <strong>debarred</strong> from any <strong>federal</strong>, New York State, New York City, or other New York local government contracting process?</td>
<td>[ ] Yes [ ] No</td>
</tr>
<tr>
<td>b)</td>
<td>Been denied a contract award, or had a bid rejected, based upon a <strong>non-responsibility finding</strong> by any <strong>federal</strong>, New York State, New York City, or other New York local government entity?</td>
<td>[ ] Yes [ ] No</td>
</tr>
<tr>
<td>c)</td>
<td>Been <strong>suspended</strong>, <strong>cancelled</strong>, or <strong>terminated for cause</strong> (including <strong>non-responsibility</strong>) on any <strong>federal</strong>, New York State, New York City, or New York local government contract?</td>
<td>[ ] Yes [ ] No</td>
</tr>
<tr>
<td>d)</td>
<td>Been the subject of an investigation, whether open or closed, by any <strong>federal</strong>, New York State, New York City, or New York local government entity for a civil or criminal violation with a penalty in excess of $500,000?</td>
<td>[ ] Yes [ ] No</td>
</tr>
<tr>
<td>e)</td>
<td>Been the subject of an indictment, grant of immunity, <strong>judgment</strong>, or conviction (including entering into a plea bargain) for conduct constituting a crime?</td>
<td>[ ] Yes [ ] No</td>
</tr>
<tr>
<td>f)</td>
<td>Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <strong>federal</strong>, New York State, New York City, or other New York local government entity?</td>
<td>[ ] Yes [ ] No</td>
</tr>
<tr>
<td>g)</td>
<td>Initiated, or been subject of, any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?</td>
<td>[ ] Yes [ ] No</td>
</tr>
</tbody>
</table>

For each "Yes," provide an explanation of the issue(s), identify the Associated Entity’s name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant date(s), the government entity involved, any remedial or corrective action(s) taken, and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.
9. REFERENCES AND PROFESSIONAL MEMBERSHIPS

9.0 Bank References
A.________________________
B.________________________
C.________________________
D.________________________
E.________________________
F.________________________
G.________________________

9.1 Trade Association Memberships
A.________________________
B.________________________
C.________________________
D.________________________
10. **CERTIFICATION**

10.0 Attach state of financial conditions, including vendor's latest regulated dated financial statement or balance sheet.

Date of current statement or balance sheet:

Name and address of firm preparing statement:

Dated at __________________ This ________ Day of ________ 20____

Name of Organization:

By:

Title:

State of: )

County of: )

M______________________________ being duly sworn deposes and says that he/she is the __________________ of __________________ contractor and that answers to the forgoing questions and all statements therein contained are true and correct.

Sworn to before me this __________________ day of __________________ 20____

Notary Public: ____________________________

My Commission expires: ____________________________

Notary Seal/Stamp

14
Request for Proposals
Western Gateway Climate Vulnerability Assessment and Adaptation Strategies

ATTACHMENT 6:
Proposal Cover Sheet
City of Glen Cove
Request for Proposals

PROFESSIONAL PLANNING AND ENVIRONMENTAL CONSULTING SERVICES FOR THE WESTERN GATEWAY CLIMATE VULNERABILITY ASSESSMENT AND ADAPTATION STRATEGIES

Proposals Due by 2:00 p.m. on Thursday, June 27, 2019

PROPOSER’S NAME: ______________________________________________

E-MAIL ADDRESS: ________________________________________________

PHYSICAL ADDRESS: _____________________________________________

__________________________________________________________________

MAILING ADDRESS (if different from physical address): ________________

__________________________________________________________________