



City of Cortland
City Hall
25 Court Street, Cortland, NY 13045
Mayor Brian Tobin
Telephone – (607) 758-8374 Fax – (607) 756-4644
Mayor@cortland.org www.cortland.org

PROCLAMATION

- WHEREAS;** in the United States, one person dies by suicide every 13.3 minutes, with 39,518 deaths by suicide in our country during 2011;
- WHEREAS;** in our country, suicide is the 3rd leading cause of death for 15 to 24 year olds, and is the 10th leading cause of death for people of all ages;
- WHEREAS;** each person’s death by suicide intimately affects at least six other people, with over 200,000 newly bereaved each year;
- WHEREAS;** in 2011, 1,625 New Yorkers died by suicide, and several thousand friends and family members were changed forever by losing those people;
- WHEREAS;** many of those people who died never received effective behavioral health services, for many reasons including the difficulty of accessing services by health care providers trained in best practices to reduce suicide risk, the stigma of using behavioral health treatment and the stigma associated with losing a loved one to suicide;
- WHEREAS;** the Suicide Prevention Subcommittee of the Governor’s Behavioral Health Services Planning Council, which is comprised of representatives of behavioral health organizations, state agencies, military/veterans organizations, educational institutions, and the community at large, who are dedicated to reducing the frequency of suicide attempts and deaths, and the pain for those affected by suicide deaths, through research projects, educational programs, intervention services, and bereavement services urges that all New Yorkers:
1. Recognize suicide is a significant public health problem in New York State and declare suicide prevention a statewide priority;
 2. Support the development of accessible behavioral health services for all 62 counties of our State, implementing national best practices in reducing suicide risk for people of all ages and backgrounds;
 3. Acknowledge that no single suicide prevention effort will be sufficient or appropriate for all populations or communities; and
 4. Encourage initiatives based on the goals and activities contained in the *National Strategy for Suicide Prevention, Zero Suicide of the National*



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Action Alliance for Suicide Prevention and The Way Forward by the
Action Alliance's suicide attempt survivor task force.

WHEREAS; far too many New Yorkers die by suicide each year and most of these deaths are preventable;

THEREFORE, be it resolved that I, Brian Tobin, Mayor of Cortland, by virtue of the authority vested in me by the Constitution and laws of Cortland and New York do hereby proclaim September 8th through September 14th, 2014 as "*Suicide Prevention Week*" in the State of New York and urge New Yorkers to learn how they can help because *Suicide Prevention is Everyone's Business*.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of September, in the year of our Lord, two thousand fourteen, and of the Cortland New York.

Brian Tobin, Mayor of Cortland, New York



CITY OF CORTLAND
OFFICE OF COMMUNITY DEVELOPMENT
THOMA DEVELOPMENT CONSULTANTS

25 Court Street, Cortland, New York 13045 Ph. 607.753.1433 Fx. 607.753.6818
www.cortland.org

MEMORANDUM

TO: Mayor Brian Tobin and Members of the City Common Council

FROM: Thoma Development Consultants

RE: NYS DEC Urban and Community Forestry Grant

DATE: August 25, 2014

The City was recently awarded a grant in the amount of \$16,800 by the NYS Department of Environmental Conservation under the Urban and Community Forestry Program. The grant agreement, or master contract needs to be signed pursuant to Common Council authorization and a resolution to that effect submitted with the signed contract.

Corporation Counsel has reviewed the documents and signed off. Attached is a proposed resolution for your adoption. Please contact Linda Armstrong at 753-1433 immediately if you have any concern with respect to authorizing this contract as it must be in the mail the day after your September 2nd Council meeting.

Attachment

Cc: Corporation Counsel (email only)
Mack Cook (Email only)

PROPOSED CERTIFIED RESOLUTION

RESOLVED:

That the Mayor of the City of Cortland is hereby authorized and directed to sign a Master Contract for Grants between the City of Cortland and the New York State Department of Environmental Conservation (DEC) for Contract No. T305009, said contract for a grant awarded the City under the DEC's 2013-2014 Urban and Community Forestry Program.

Signed: City Clerk

Dated:

Municipal Seal

New York State Department of Environmental Conservation

Division of Lands & Forests

Bureau of Private Land Services

270 Michigan Avenue, Buffalo, NY 14203

Phone: (716) 851-7010 \$ FAX: (716) 851-7005

Website: www.dec.ny.gov



Joe Martens
Commissioner

July 10, 2014

Honorable Brian Tobin
Mayor
City of Cortland
City Hall - 25 Court Street
Cortland, NY 13045

RE: 2013-14 Urban and Community Forestry Grant – Round 12 - Contract No.: T305099

Dear Mayor Tobin:

The New York State Department of Environmental Conservation (Department) recently awarded you a 2013-14 Urban and Community Forestry (UCF) grant for **East End Neighborhood Reforestation Program**.

This letter and enclosed contract package provides you with important documents and instructions regarding the next steps in executing a contract with the Department for UCF grant funds in the amount of **\$16800**. Please carefully review your contract in its entirety **and return all documents, listed below, to my attention no later than September 1, 2014**. Once your contract is approved by the Department, a fully executed contract will be returned to you for your records.

Minority and Women-Owned Business Enterprises (M/WBE) Equal Opportunity (EEO) Work Plan and Utilization Plan.

The MWBE Work Plan and Utilization Plan must be filled in online. This constitutes your agreement to MWBE goals. In the most basic terms, this program requires that you reach out to the MWBE listed firms to hire them, document your attempts to do so, report the amount you pay to MWBE firms and provide justification should you fail to reach the stated goals.

Please fill in the MWBE Work Plan and Utilization Plan to the best of your ability for your project at: http://www.dec.ny.gov/docs/administration_pdf/wp.pdf and http://www.dec.ny.gov/docs/administration_pdf/up.pdf, then click "submit by e-mail" near the bottom of the form. Any further questions regarding MWBE should be directed to DEC's M/WBE program at (518) 402-9240.

Proof of Insurance Documents

Please note that you will be required to provide the Department with proof of workers' compensation and disability benefits prior to entering into and executing a contract. If you are a Municipality, you are only required to submit proof of workers' compensation. Additional Liability Insurance may be required based on the type of work to be implemented. Review acceptable proofs of coverage which can be found at the following links, or as detailed in the Master Grant Contract, Attachment A – Program Terms and Conditions (XIV, page 9).

Workers' Compensation - <http://www.wcb.ny.gov/content/onlineforms/obtainC105.jsp>

Disability Benefits - <http://www.wcb.ny.gov/content/onlineforms/obtainDB120-1.jsp>

Mandatory Submittal State Assistance Contract Documents

Contract Face Page

Original Contract (keep a copy for your records or until an executed copy is returned to you).

Contract Signature/Acknowledgment Pages – **three (3) signature pages must** be returned bearing the original signature of the individual authorized in the Resolution to enter into and execute this UCF contract with the Department. Copies of signature pages will not be accepted.

Attachment A-1 - NOTE: Please enter your **lead contract information** on final page

Attachment B-1 Expenditure Based Budget (as previously submitted)

Attachment C – Work Plan Summary and Detail – (as previously submitted)

Attachment D – Payment and Reporting Schedule

Proof of Worker's Comp and Disability Insurance

Liability Insurance if necessary for your project

Along with the mandatory documents needing to be submitted, I will need an original Resolution with the City stamp/seal. In the application packet submitted by the City, it references a Resolution, but none was included. It refers to Resolution #256.

Please return all mandatory documents, and any other requested information or documents, to my attention for final processing. Final processing includes approval and execution of the contract by DEC. Once the contract has been executed, an original copy will be returned to you for your records, along with a packet of forms, direction and information that will enable you to request reimbursement.

Payments under this contract will be rendered electronically, unless payment by paper check is expressly authorized by the Commissioner of the Department. Authorization forms are available at the Comptroller's website at www.osc.state.ny.us/epay/index.htm, by e-mail at epunit@osc.state.ny.us or by telephone at (518) 402-4067.

Please keep in mind that Quick Start grants are only eligible to request one final payment upon completion of the project. Large and small communities may request quarterly payments prior to a final reimbursement and close-out payment (quarterly payments are optional, not mandatory).

Please contact me at 716-851-7010 if you need assistance or have any questions regarding the enclosed contract or related forms. Forms that are not originals, filled out incorrectly or are missing will result in delays in processing.

Sincerely,



Debra Gorka, Forester
NYS DEC
270 Michigan Avenue
Buffalo, NY 14203

dagorka@gw.dec.state.ny.us

Enclosures

c: Diane Batzing
David Sinclair, Regional Forester

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<p>STATE AGENCY (Name & Address):</p> <p>NYS Department of Environmental Conservation 625 Broadway Albany, NY 12233</p>	<p>BUSINESS UNIT/DEPT. ID: DEC01/3350000</p> <p>CONTRACT NUMBER: T305099</p> <p>CONTRACT TYPE:</p> <p><input type="checkbox"/> Multi-Year Agreement <input type="checkbox"/> Simplified Renewal Agreement <input checked="" type="checkbox"/> Fixed Term Agreement</p>
<p>CONTRACTOR SFS PAYEE NAME:</p> <p>City of Cortland</p>	<p>TRANSACTION TYPE:</p> <p><input checked="" type="checkbox"/> New <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment</p>
<p>CONTRACTOR DOS INCORPORATED NAME:</p>	<p>PROJECT NAME:</p> <p>East End Neighborhood Reforestation Program</p>
<p>CONTRACTOR IDENTIFICATION NUMBERS:</p> <p>NYS Vendor ID Number: 1000002571 Federal Tax ID Number: 15-6000405 DUNS Number (if applicable):</p>	<p>AGENCY IDENTIFIER:</p> <p>UCF-SC</p> <p>CFDA NUMBER (Federally Funded Grants Only):</p>
<p>CONTRACTOR PRIMARY MAILING ADDRESS:</p> <p>City Hall - 25 Court Street Cortland, NY 13045</p> <p>CONTRACTOR PAYMENT ADDRESS:</p> <p><input checked="" type="checkbox"/> Check if same as primary mailing address</p> <p>CONTRACT MAILING ADDRESS:</p> <p><input checked="" type="checkbox"/> Check if same as primary mailing address</p>	<p>CONTRACTOR STATUS:</p> <p><input type="checkbox"/> For Profit <input checked="" type="checkbox"/> Municipality, Code: <input type="checkbox"/> Tribal Nation <input type="checkbox"/> Individual <input type="checkbox"/> Not-for-Profit</p> <p>Charities Registration Number:</p> <p>Exemption Status/Code:</p> <p><input type="checkbox"/> Sectarian Entity</p>

Contract Number: # T305099

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<p>CURRENT CONTRACT TERM: From: 06/01/2014 To: 05/31/2017</p> <p>CURRENT CONTRACT PERIOD: From: To:</p> <p>AMENDED TERM: From: To:</p> <p>AMENDED PERIOD: From: To:</p>	<p>CONTRACT FUNDING AMOUNT <i>(Multi-year - enter total projected amount of the contract; Fixed Term/Simplified Renewal - enter current period amount):</i></p> <p>CURRENT: \$ 16,800</p> <p>AMENDED:</p> <p>FUNDING SOURCE(S)</p> <p><input checked="" type="checkbox"/> State <input type="checkbox"/> Federal <input type="checkbox"/> Other</p>
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FOR MULTI-YEAR AGREEMENTS ONLY - CONTRACT PERIOD AND FUNDING AMOUNT:
(Out years represent projected funding amounts)

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

ATTACHMENTS PART OF THIS AGREEMENT:

- | | |
|--|---|
| <input type="checkbox"/> Attachment A: | <input checked="" type="checkbox"/> A-1 Program Specific Terms and Conditions |
| | <input type="checkbox"/> A-2 Federally Funded Grants |
| | |
| <input type="checkbox"/> Attachment B: | <input checked="" type="checkbox"/> B-1 Expenditure Based Budget |
| | <input type="checkbox"/> B-2 Performance Based Budget |
| | <input type="checkbox"/> B-3 Capital Budget |
| | <input type="checkbox"/> B-1(A) Expenditure Based Budget (Amendment) |
| | <input type="checkbox"/> B-2(A) Performance Based Budget (Amendment) |
| | <input type="checkbox"/> B-3(A) Capital Budget (Amendment) |
| | |
| <input checked="" type="checkbox"/> Attachment C: Work Plan | |
| <input checked="" type="checkbox"/> Attachment D: Payment and Reporting Schedule | |
| <input type="checkbox"/> Other: | |

**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-2¹, Attachment B, Attachment C and Attachment D
4. The Face Page
5. Attachment A-2², 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

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).
Contract Number: # T305099

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.

G. Governing Law: The Master Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

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.³

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: All of the Specific federal requirements that are applicable to the Master Contract are identified in Attachment A-2 (Federally Funded Grants) hereto. To the extent that the Master Contract is funded in whole or part with federal funds, (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

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.

rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Attachment A-2 (Federally Funded Grants) hereto.

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. 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.
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:⁴ 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:⁵ 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:⁶ Payment shall be limited to rate(s) established in the Master Contract. Payment may be requested no more frequently than monthly.

g) Scheduled Reimbursement:⁷ The State Agency shall generate vouchers at the frequencies and amounts as set forth in Attachment D (Payment and Reporting Schedule),

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.

and service reports shall be used to determine funding levels appropriate to the next annual contract period.

h) Fifth Quarter Payments:⁸ Fifth 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

⁸ Fifth Quarter Payments occurs where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.

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. 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. 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. 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. When a subcontract equals or exceeds \$100,000, the subcontractor must submit a Vendor Responsibility Questionnaire (Questionnaire).

5. When a subcontract is executed, the Contractor must 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 Contractor 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).
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.

3. Federal Funds: For records and audit provisions governing Federal funds, please see Attachment A-2 (Federally Funded Grants).

F. Confidentiality: The Contractor agrees that it shall use and maintain information relating to individuals who may receive services, and their families pursuant to the Master Contract, or any other information, data or records 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, 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 V(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 work force 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:⁹ 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.

⁹ Not applicable to not-for-profit entities.

**ATTACHMENT A
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:

Mary Kramarchyk, Urban Forestry Program Manager

(Name and Title)

New York State Department of Environmental Conservation

(Address1)

625 Broadway, Albany, New York 12233-4253

(Address2)

(518) 402-9425

(Telephone)

The designated appeal individual to review decisions is:

Bruce Williamson, Bureau Chief, Private Lands

(Name and Title)

New York State Department of Environmental Conservation

(Address1)

625 Broadway, Albany, New York 12233-4253

(Address2)

(518) 402-9425

(Telephone)

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.

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- (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

Any invention or discovery first made in performance of this Contract shall be the property of the Department, unless otherwise provided in the contract. The Contractor agrees to provide the Department with any and all materials related to this property. At the Department's option, the Contractor may be granted a non-exclusive license.

VII. Intellectual Property and Copyright Materials

Title to and the right to determine the disposition of any copyrights, or copyrightable materials or intellectual property FIRST produced or created in the performance of this Project remains with the Contractor provided that the Contractor agrees to grant to the Department an irrevocable, royalty-free, non-exclusive right to reproduce, translate, and use all such material for its own purposes.

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.
- (e) The foregoing states the Contractor's entire liability for, or resulting from, patent or copyright infringement or claim thereof.

IX. Freedom of Information Requests

The Contractor agrees to provide the Department with any records which must be released in order to comply with a request pursuant to the Freedom of Information Law. The Department will provide the contractor with an opportunity to identify material which may be protected from release and to support its position.

X. Article 15-Requirements

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

1. General Provisions

- A. 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.
- B. 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

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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.

- C. 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.

2. Contract Goals

- A. For purposes of this procurement, the Department hereby establishes an overall goal of 20% for Minority and Women-Owned Business Enterprises ("MWBE") participation, 10 % for Minority-Owned Business Enterprises ("MBE") participation and 10 % for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs).
- B. 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/FrontEnd/VendorSearchPublic.asp> or email: mwbecertification@esd.ny.gov

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.

- C. 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.

3. Equal Employment Opportunity (EEO)

- A. 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:
 - 1. 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.
 - 2. 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.
 - 3. 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.
 - 4. 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 10% Minority Labor Force Participation, 10% Female Labor Force Participation.

B. 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.

C. Workforce Employment Utilization Report Form ("Workforce Report")

- 1. 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.
- 2. Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.
- 3. 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.

D. 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.

4. MWBE Utilization Plan

- A. 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.
- B. 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 III-A of this Appendix.
- C. 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.

5. Waivers

- A. For Waiver Requests Contractor should use Waiver Request Form.

- B. 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.
- C. 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.

6. 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.

7. Liquidated Damages - MWBE Participation

- A. 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.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 - 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
 - 3.
- C. 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.

8. Forms

The following forms referenced in Article IX 3-A-3, 3B, 3C and 5A can be found at <http://www.dec.ny.gov/about/48854.html>

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/reggs/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 Disability Act

In the event the monies defined herein are to be used for the development of facilities, the Contractor shall comply with all requirements for providing barrier-free access for the handicapped as established by Article 4A of the New York State Public Buildings Law, Americans with Disability Act, and relevant sections of the New York State Uniform Fire Prevention and Building Code.

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

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 applicable to the project work plan, hereinafter provided by insurance companies licensed to do business in the State of New York, covering all operations under this Contract. 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, in form satisfactory to the Department, showing that it has complied with this Article, which certificate or certificates shall provide that the policies shall not be changed or canceled until thirty (30) days written notice has been given to the Department. The certificate shall list the Department and the State of New York as additional insureds, except with respect to worker's compensation and disability coverage. An endorsement in writing added to and made part of the insurance contract for the purpose of changing the original terms such that the Department and the State of New York are added as additional insured. In addition, the applicable insurance policy number(s) referenced on the ACCORD form must be referenced on the endorsement. A copy of the endorsement page, showing the Department and the State of New York as additional insured, must be provided to the Department. This Contract shall be void and of no effect unless the Contractor procures the required insurance policies and maintains them until acceptance of the work. The kinds and amounts of insurance required are as follows:

1. Policy covering the obligations of the Contractor in accordance with the provisions of the Worker's Compensation Law, Employers Liability, and Disability Benefits.

The *only* forms which are accepted as proof of Workers' Compensation Insurance are as follows:

<u>FORM #</u>	<u>FORM TITLE</u>
C-105.2	Certificate of Workers' Compensation Insurance
CE-200	Certificate of Attestation of Exemption -- (no employees)
U-26.3	State Insurance Fund Version of the C-105.2 form
SI-12	Certificate of Workers' Compensation Self-Insurance
GSI-105.2	Certificate of Participation in Worker's Comp Group Self-Insurance

The *only* forms which are accepted as proof of Disability Benefit Insurance are as follows:

<u>FORM #</u>	<u>FORM TITLE</u>
DB-120.1	Certificate of Disability Benefit Insurance
DB-120.2	Certificate of Participation in Disability Benefits Group Self-insurance
DB-155	Certificate of Disability Benefit Self-Insurance
CE-200	Certificate of Attestation of Exemption -- (no employees)

An ACORD form is NOT an acceptable proof of Workers' Compensation coverage. **ALL OF THE ABOVE REFERENCED FORMS, EXCEPT CE-200, SI-12 & DB-155 MUST NAME:** The New York State Department of Environmental Conservation, Division/Program of Lands and Forest - Urban and Community Forestry, 625 Broadway, Albany, NY 12233-4253, as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

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

2. Commercial General Liability Insurance with a limit of not less than \$1,000,000 each occurrence. 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).

3. Comprehensive Business Automobile Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non owned automobiles.

4. The Contractor shall require that any subcontractors hired, carry insurance with the same limits and provisions as provided herein.

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.

Contract Number: T305099

- 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. The Department requires an affirmation from the contractor's attorney as proof of title or sufficient interest in the project site.

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.

**ATTACHMENT A
PROGRAM SPECIFIC TERMS AND CONDITIONS
NYS DEC URBAN AND COMMUNITY FORESTRY GRANTS**

B) PROGRAM SPECIFIC TERMS AND CONDITIONS

I. Local Match Requirements

The Department share will not exceed the amount indicated by checkmark under this Article:

- a) For Tree Planting, Tree Maintenance and Invasive Insect Detection Survey projects, the Department share will not exceed fifty percent (50%) of approved project costs, up to the Contract Funding Amount identified on the Face Page, and the Contractor will provide fifty percent (50%) of required and eligible local match, not paid from other state or federal funding. These percentages shall be specified in Attachment B-1 (Expenditure Budget).
- b) For Quick Start, Tree Inventory, and Tree Management grant projects, the Department share will be one hundred percent (100%) of approved project costs, up to the Contract Funding Amount identified on the Face Page. The Contractor is not required to provide local match on any portion of the Contract Funding Amount identified on the Face Page.

II. Pre-Approval Conditions

Prior to the Contractor's purchase and planting of plant materials, a Project list of tree species must be submitted for review to an appropriate Department forester or authorized representative.

III. Useful Life of the Project

The Contractor agrees to maintain and operate the Project for a period of not less than five (5) years from completion of tree planting projects.

IV. Notices

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. 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: New York State Department of Environmental Conservation
Division of Lands and Forests
270 Michigan Avenue
Buffalo, New York 14203
Attn: Debra Gorka
Tel. No: 716-851-7010

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 _____
_____. Notices or communications regarding this Contract should be in writing and delivered or sent to the Contractor's authorized representative at:

Address: _____

Tel. No: _____

With a copy/ies to: _____

Address: _____

Tel. No: _____

Notices delivered or sent shall be deemed for all purposes as notice to all persons who are Parties to this Contract as Department or Contractor.

ATTACHMENT B-1 - EXPENDITURE BASED BUDGET SUMMARY

Project Name: East End Neighborhood Reforestation Program

Contract Number: _____

Contractor SFS Payee Name: City of Cortland

Category of Expense	Grant Funds	Match Funds	Other Funds	Total Funds
1. Personal Services Category				
<i>(Provide detail on Salary on the Personal Services Category Detail page.)</i>				
a. Salary		\$10,792.48		\$10,792.48
b. Fringe				
1. Total Personal Services		\$10,792.48		
2. Non-personal Services Category				
<i>(Provide detail on each of the sub-categories below on the Non-personal Services Category Detail pages.)</i>				
a. Travel				
b. Equipment		\$6,658.56		\$6,658.56
c. Contractual Services				
d. Space/Property & Utilities				
e. Operating Expenses				
f. Other Tree Purchase	\$16,800.00			\$16,800.00
2. Total Non-personal Services	\$16,800.00	\$6,658.56		
Total Award Amount <i>(Total Personal Services + Total Non-personal Services)</i>	\$16,800.00	\$17,451.00		\$34,251.00

b. Equipment – Type Description

Item Description	City of Coritland DPW Equipment Costs	Cost	\$6,658.56
	See Attached		
b. Total Equipment			\$6,658.56

c. Contractual Services – Type Description

Contractor Name	Type of Work	Amount of Contract
c. Total Contractual		

d. Space/Property & Utilities

Item Description	Cost
d. Total Space/Property & Utilities	

e. Operating Expenses

Item Description	Cost
e. Total Operating Expenses	

f. Other

Item Description	Cost
Purchase of tree stock 120 trees x \$140 each = \$16,800	\$16,800
f. Total Other	\$16,800

2. Total Non-personal Services

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ATTACHMENT TO ATTACHMENT B-1

As noted in the Narrative, the City of Cortland recently completed the closeout of its 2011 UCF grant (T304559). Therefore it has actual costs for labor and equipment that can be used for this application. Labor costs are calculated based on the City's current DPW union contract wages. The hours worked in 2012/2013 for the UCF grant are used to compute the costs for this grant. Equipment costs are computed based on 2013 actual figures.

Personnel Calculation

DPW WORKER (INITIALS)	HOURLY RATE	HOURS WORKED ('12/'13)	TOTAL
GD	\$18.87	X 136	\$2,566.32
JP	17.78	136	2,418.08
TW	25.80	56	1,444.80
DF	20.03	96	1,922.88
JG	21.79	16	348.64
RW	17.78	8	142.24
DS	19.08	32	610.56
BH	18.87	8	150.96
CS	8.25	80	660.00
DP	8.25	64	528.00
		TOTAL	\$10,792.48

Equipment Usage - *NYS DOT Rental Rate Schedule (9/1/2009)

EQUIPMENT	HOURLY RATE*	HOURS USED ('12/'13)	TOTAL
Rubber Tired Backhoe	\$23.83	X 136	\$3,240.88
Pickup Truck with Trailer	23.43	56	1312.08
Service Truck with Trailer	26.32	80	2,105.60
		TOTAL	\$6,658.56

TOTAL	
Personnel	\$10,792.48
Equipment	\$6,658.56
TOTAL PERSONNEL + EQUIPMENT	\$17,451.04

ATTACHMENT C – WORK PLAN

As detailed in the Narrative, it is the City of Cortland's intentions to plant 120 trees in an area referred to in the application as the East End Neighborhood Reforestration Program. The City will purchase the trees using UCF funds and utilize the equipment and manpower of the City's Department of Works personnel to complete the plantings and provide the required match. Plantings will be overseen by a member(s) of the City's Landscape and Design Commission and a representative of National Grid. Planting specifications are in compliance with those put forth by the DEC.

The City has been fortunate to receive a number of UCF and Small Business Tree Planting Grants over the years and is well versed in the requirements related to administering a successful Tree Planting Program.

For the City's UCF application, it has the following goals:

- Increase the number and diversity of its urban tree forest.
- Having identified areas via a City-wide Tree Inventory, plant trees in areas/neighborhoods that are devoid of trees.
- Maximize scarce resources by planting trees in a cost effective manner.
- Maintain trees after they are planted, to protect its investment.
- Ensure all residents, workers, and property owners are aware of the community asset that trees are through outreach and education.

For this proposed UCF Program, the City will undertake the following tasks upon grant award:

- Execute a grant agreement with the State.
- Follow all prescribed procurement regulations that may be imposed by the State.
- Purchase the tree stock as detailed in the Narrative of this application. Inspect.
- Solicit participation in the target area from property owners via media outlets and door-to-door efforts.
- Complete all administrative pre-planting work associated with planting sites: property owner releases, identification of overhead and underground utilities, etc.
- Plant trees using Department of Works personnel and equipment, with planting oversight provided by City partners including, but not limited to, property owners, National Grid, Nelson Tree Service, DPW Assistant Superintendent.
- Complete all educational components such as distribution of the City's Tree Planting brochure, providing information about the City's tree ordinance and how to properly maintain trees on the City's website, www.cortland.org, and providing photo opportunities and press releases to the local newspaper, the Cortland Standard.
- All match will be documented accordingly, and the City will closeout the grant in a comprehensive manner, as it has done in the recent past.

The desired outcome of this program is to increase the number of trees and the diversity of trees in the East End Neighborhood. The City also wishes to provide tree buffers between industrial and commercial sites and residential properties. To this end, the City has the following desired outcomes:

- Purchase a variety of trees at competitive prices.
- With respect to cost effectiveness, the City's DPW will plant the trees with their own personnel and equipment.
- Work with major East End employers such as Marietta Packaging and Apex Tool Group regarding planting sites.
- Solicit participation in the program by residential property owners, especially on streets where trees are sparse or lacking.

The City's Performance Measures for this grant are:

- Plant at least 120 trees in the East End Neighborhood.
- Plant trees in the public ROW in and around properties that are industrial and/or commercial that do not have sufficient trees surrounding their property.
- Have at least 80 property owners participate in the program.
- Inject a variety of new or lacking tree species in the East End Neighborhood.
- Complete the educational component of this grant to educate all property owners in the City on the benefits of trees.
- Administer the UCF grant and provide the proper documentation so that the City can receive its reimbursement.

Attachment C – Work Plan

Summary

PROJECT NAME:

East End Neighborhood Reforestation Program

CONTRACTOR SFS

PAYEE NAME:

City of Cortland

CONTRACT PERIOD:

From: March 2018

To: December 2016

Provide an overview of the project including goals, tasks, desired outcomes and performance measures:
See Attached

Detail

OBJECTIVE	BUDGET CATEGORY/ CATEGORY/ DELIVERABLE (if applicable)	TASKS	PERFORMANCE MEASURES
1: Increase Tree Diversity and Number in East End	1. Personal Services Category 2. Non-personal Services Category b. Equipment c. Other - Tree purchases	a. Execute Grant Agreement, Procurement b. Purchase Trees/Plant c. Education Outreach/ Grant Administration	i. Signed Grant Agreement ii. iii. i. # of trees purchased, variety, cost per ii. DPW plant trees with partners iii. Maintain trees for 5 - years i. Website, newspaper, brochures ii. Submit documentation to State iii. Receive reimbursement

OBJECTIVE	BUDGET CATEGORY/ CATEGORY/ DELIVERABLE (if applicable)	TASKS	PERFORMANCE MEASURES
2:		a. b. c.	i. ii. iii. i. ii. iii. i. ii. iii.

**ATTACHMENT D
PAYMENT AND REPORTING SCHEDULE**

I. PAYMENT PROVISIONS

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 hereof. All payments shall be in accordance with the budget contained in the applicable Attachment B form (Budget), which is attached hereto.

A. Advance Payment and Recoupment Language (if applicable):

1. The State agency will make an advance payment to the Contractor, during the initial period, in the amount of zero percent (0 %) the budget as set forth in the most recently approved applicable Attachment B form (Budget).
2. Recoupment of any advance payment(s) shall be recovered by crediting (0 %) of subsequent claims and such claims will be reduced until the advance is fully recovered within the contract period.
3. Scheduled advance payments shall be due in accordance with an approved payment schedule as follows:

Period: _____	Amount: _____	Due Date: _____
Period: _____	Amount: _____	Due Date: _____
Period: _____	Amount: _____	Due Date: _____
Period: _____	Amount: _____	Due Date: _____

B. Interim and/or Final Claims for Reimbursement

Claiming Schedule (*select applicable frequency*):

- Quarterly Reimbursement
Due date 15 days from end of quarter
- Monthly Reimbursement
Due date _____
- Biannual Reimbursement
Due date _____
- Fee for Service Reimbursement
Due date _____

- Rate Based Reimbursement
Due date _____
- Fifth Quarter Reimbursement
Due date _____
- Milestone/Performance Reimbursement
Due date/Frequency _____
- Scheduled Reimbursement
Due date/Frequency _____

II. REPORTING PROVISIONS

A. Expenditure-Based Reports *(select the applicable report type):*

- Narrative/Qualitative Report

The Contractor will submit, on a quarterly basis, not later than 15 days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of the Master Contract.

- Statistical/Quantitative Report

The Contractor will submit, on a quarterly basis, not later than _____ days from the end of the quarter, the report described in Section III(G)(2)(a)(ii) of the Master Contract.

- Expenditure Report

The Contractor will submit, on a quarterly basis, not later than 15 days after the end date for which reimbursement is being claimed, the report described in Section III(G)(2)(a)(iii) of the Master Contract.

- Final Report

The Contractor will submit the final report as described in Section III(G)(2)(a)(iv) of the Master Contract, no later than 30 days after the end of the contract period.

- Consolidated Fiscal Report (CFR)¹

The Contractor will submit the CFR on an annual basis, in accordance with the time frames designated in the CFR manual. For New York City contractors, the due date shall be May 1 of each year; for Upstate and Long Island contractors, the due date shall be November 1 of each year.

¹ The Consolidated Fiscal Reporting System is a standardized electronic reporting method accepted by Office of Alcoholism & Substance Services, Office of Mental Health, Office of Persons with Developmental Disabilities and the State Education Department, consisting of schedules which, in different combinations, capture financial information for budgets, quarterly and/or mid-year claims, an annual cost report, and a final claim. The CFR, which must be submitted annually, is both a year-end cost report and a year-end claiming document.

B. Progress-Based Reports

1. Progress Reports

The Contractor shall provide the report described in Section III(G)(2)(b)(i) of the Master Contract in accordance with the forms and in the format provided by the State Agency, summarizing the work performed during the contract period (see Table 1 below for the annual schedule).

2. Final Progress Report

Final scheduled payment will not be due until ____ days after completion of agency's audit of the final expenditures report/documentation showing total grant expenses submitted by vendor with its final invoice. Deadline for submission of the final report is _____. The agency shall complete its audit and notify vendor of the results no later than _____. The Contractor shall submit the report not later than ____ days from the end of the contract.

C. Other Reports

The Contractor shall provide reports in accordance with the form, content and schedule as set forth in Table 1.

TABLE I – REPORTING SCHEDULE

PROGRESS REPORT #	PERIOD COVERED	DUE DATE
1	06/01/14 - 08/31/14	15 days after end of quarter
2	09/01/14-11/30/14	15 days after end of quarter
3	12/01/14-02/28/15	15 days after end of quarter
4	03/01/15-05/31/15	15 days after end of quarter
5	06/01/15-08/31/15	15 days after end of quarter
6	09/01/15-11/30/15	15 days after end of quarter
7	12/01/15-02/29/16	15 days after end of quarter
8	03/01/16-05/31/16	15 days after end of quarter
9	06/01/16-08/31/16	15 days after end of quarter
10	09/01/16-11/30/16	15 days after end of quarter
11	12/01/16-02/28/17	15 days after end of quarter
12	03/01/17-05/31/17	15 days after end of quarter



City of Cortland
City Hall – Mayor’s Office
Brian Tobin
Mayor
25 Court Street, Cortland, New York 13045
Website: www.cortland.org

Phone: 607-758-8374

Fax: 607-756-4644

STATE OF NEW YORK:

SS

COUNTY OF CORTLAND:

I, Ray Parker, City Clerk in and for the City of Cortland, New York, do hereby certify that the attached resolution was duly adopted at a special session of the Common Council of the City of Cortland, New York held on November 19, 2013 and that such resolution appears in the minutes of that date in meetings of the Common Council.

Present: Mayor Brian Tobin, Alderman Bennett, Michales, Silliman, Dye, Bird, Ferguson, Quail and Ferrer

Staff Present: Director of Finance and Administration Mack Cook, Corporation Counsel Richard Van Donsel, Fire Chief Charles Glover, Deputy Fire Chief William Knickerbocker, City Clerk Judith Chamberlin, Confidential Secretary to the Mayor Shellie Blaisdell

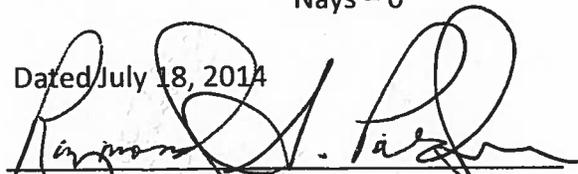
Resolution #256 of 2013 – Resolution for the Mayor to sign and submit a NYS DEC Urban and Community Forestry Grant.

Motion By: Alderman Ferguson

Seconded By: Alderman Bird

Approved: Ayes – 8
Nays – 0

Dated July 18, 2014



City Clerk, Ray Parker



August 5, 2014

Mayor Brian Tobin
City of Cortland
City Hall
25 Court Street
Cortland NY 13045

Dear Mayor Tobin,

The 19th Annual Great Cortland Pumpkinfest is going to be held Saturday October 4th and Sunday October 5th 2014. To make the event possible and insure it's continued success the Pumpkinfest Committee would like permission from the Common Council to do the following:

Permission to use the City's portion of Court House Park for the Pumpkinfest, October 3 through October 6, 2014.

To attach to or place near the City of Cortland entrance signs, signs announcing the dates of the Great Cortland Pumpkinfest. These signs would go up the week of September 22th and be taken down the week of October 6th.

Thank you for considering our request.

Sincerely,

Jim Dempsey
Co-Chairperson
The Great Cortland Pumpkinfest Committee

JD:db

...and the fact that the system is not yet fully operational, the Commission has decided to postpone the start of the negotiations until the end of 1992.

The Commission has also decided to postpone the start of the negotiations until the end of 1992.

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- (1) Front: 25 feet.
- (2) Side:
 - (a) All uses except multifamily dwellings: seven feet.
 - (b) Multifamily dwellings seven feet, plus one foot for each foot of height above 35 feet, up to a maximum of 25 feet.
- (3) Rear: 25 feet.
- (4) Sheds and detached garages are only allowed in rear yards and must be set back at least four feet from all property lines.

D. Maximum lot coverage: 75%

§ 300-19. (Reserved)

**ARTICLE III
Professional Office and Service Districts**

§ 300-20. Professional Office District.

- A. The Professional Office District (PO) is designed to accommodate a mixture of residential uses and relatively low-intensity office and professional or service uses. It is intended that this zoning district be applied primarily in areas that are no longer viable as single-family residential areas because of high traffic volumes on adjacent streets or because of other market factors, but remain viable as locations for multifamily dwellings or offices. Such areas will also generally constitute a transition or buffer zone between collector streets or more intensively developed commercial areas and residential districts. The dimensional regulations are intended to encourage the renovation for commercial purposes of buildings that formerly were single-family detached dwellings.
- B. Allowed uses by right:
 - (1) Art and photographic galleries and studios.
 - (2) Bed-and-breakfasts.
 - (3) Day-care centers.
 - (4) Funeral parlors.
 - (5) Mixed-use buildings.
 - (6) Multifamily dwellings.
 - (7) Personal and professional services.
 - (8) Single- and two-family dwellings.

C. Allowed uses by special use permit:

- (1) Ancillary parking areas.
- (2) Appearance enhancement services.
- (3) Churches and other places of worship.
- (4) Clubs (lodges, fraternal organizations, etc.).
- (5) Commercial indoor lodging.
- (6) Extended-care medical facilities.
- (7) Financial institutions and services.
- (8) Fraternity and sorority houses.
- (9) Fuel stations.
- (10) Public service utilities.

§ 300-21. PO District area regulations.

PO District area regulations are as follows:

- A. Minimum lot size: 7,500 square feet.
- B. Minimum width: 105 feet.
- C. Minimum yards:
 - (1) Front: 25 feet.
 - (2) Side:
 - (a) All uses except multifamily dwellings: seven feet.
 - (b) Multifamily dwellings seven feet, plus one foot for each foot of height above 35 feet, up to a maximum of 25 feet.
 - (3) Rear: 25 feet.
- D. Maximum lot coverage: 75%.

§ 300-22. Service Business District.

- A. The purpose of the Service Business District (SD) is to provide areas near residential neighborhoods for small retail sales stores and service-type businesses.
- B. Allowed uses by right:



**CITY OF CORTLAND
WASTEWATER TREATMENT
FACILITY ADVISORY BOARD**



John Troy, Chairman
William Starr, Vice Chairman

Sally Horak, Commissioner
Paul Lorenzo, Commissioner
Todd Morris, Commissioner

To: Cortland Common Council

From: Cortland Wastewater Advisory Board

Date: August 25, 2014

Re: Bid award and operations agreement

Serving in its role as an advisory panel to the Common Council for the Wastewater Treatment Department, the Wastewater Advisory Board endorses Cedarwood Engineering's recommendation to award the bid for SBR equipment supply and SCADA upgrade to e-Process Environmental for \$1,792,000.

The Wastewater Advisory Board also recommends approving the agreement between the City and Marietta Corporation for Cortland Wastewater staff to operate Marietta's pretreatment equipment in a labor contract context. The Board agrees with Chief Operator Adams this is a viable means of retaining trained staff

Sincerely,

John Troy, Chairman
On behalf of the full Wastewater Advisory Board

CEDARWOOD ENGINEERING SERVICES PLLC

248 Main Street, PO Box 203, North Creek NY 12853 • Phone 518-251-5160 • FAX 518-251-5158

August 19, 2014

Bruce Adams, Chief Operator
City of Cortland WWTP
251 Port Watson Street
Cortland, NY 13045

RECEIVED
8/21/14
als

Re: Wastewater Treatment Plant
Equipment Bid
Nutrient Removal Improvement Project
Contract CC-EQPT-14 Equipment

Dear Mr. Adams,

As you are aware the City of Cortland recently advertised for bids for the Nutrient Removal Improvements for the ongoing upgrades at the wastewater treatment plant. The solicitation for bids followed standard bidding protocol and one vender submitted bids for the project; we have reviewed the bid document for the Sequenced Bach Reactor (SBR) equipment supply and SCADA Upgrade for the plant.

The budgeted amount for the SBR equipment for the upgrade was \$1,600,000.00 and the bid amount is \$1,618,000.00, the budgeted amount for the SCADA upgrade was \$400,000.00 and the bid amount is \$174,000.00.

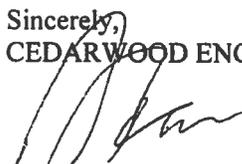
The total bid of \$1,792,000.00 is under the budgeted allotment of \$2,000,000.00 for this portion of the upgrade project.

After review of the bid packet for completeness and supplied equipment in the vendors bid proposal to the specified equipment; we recommend award to e-Process Environmental Inc. for a sum not to exceed \$1,792,000.00.

Please bring this item to common council for a vote to award, the resolution for award shall stipulate the award is pending the closing of the financing package from NYSEFC and the equipment will be ordered after that date. This will allow the prompt ordering of the equipment to speed up delivery of the long lead items, also allowing for preparation work to take place at the site this fall in anticipation of the bulk equipment being delivered during the winter months for spring 2015 installation.

Please contact myself or John Peterson with any questions &/or concerns.

Sincerely,
CEDARWOOD ENGINEERING SERVICES PLLC


Jim Suozzo, P.E.

Cc: Mack Cook, City of Cortland
Jim Geiger, NYSEFC
Meghan Gilbert, NYSDEC – Region 7

8-12 Dietz Street, Suite 303, Oneonta NY 13820 • Phone 607-432-8073 • FAX 607-432-0432

**AGREEMENT
BETWEEN
MARIETTA CORPORATION
AND
CITY OF CORTLAND
FOR SERVICES AS A CONTRACT OPERATOR**

THIS AGREEMENT made the 22ND day of AUGUST, 2014, by and between Marietta Corporation (herein referred to as Marietta and/or Owner), a corporation having an office at 106 Central Avenue Cortland, NY, and City of Cortland, NY (herein referred to as Operator, and/or City) having a place of business at 25 Court Street, Cortland, NY.

WITNESSETH:

WHEREAS, Marietta is desirous to contract for operation and maintenance of their wastewater pretreatment facility, and to maintain professional administration of the same facility.

AND WHEREAS, Marietta is desirous of entering into an agreement for the purchase of services for Operator to complete the agreed upon tasks as they relate to the operation of the Marietta Wastewater Pretreatment Facility and pursuant to Attachment 1;

AND WHEREAS, Marietta now desires to enter into an agreement for a period of three (3) years, commencing September 3, 2014, until August 31, 2017, and thereafter on a basis by mutual agreement of the parties.

AND WHEREAS, this agreement is based upon information provided by Marietta of its pretreatment facility and its current design. This information includes, but is not limited to, the design parameters and operations and maintenance guidelines outlined in the Newterra O&M manual for project #201712 by Newterra for Marietta, Newterra training attended by Operator's staff, and time estimates provided by Marietta. Specifically, this agreement is based on an average daily flow of up to 70,000 gallons per day, calculated monthly, to be discharged to the City of Cortland's sanitary sewer system. As defined by the City of Cortland pretreatment requirements, the Marietta treated effluent shall comply with the following parameters and concentrations:

PARAMETER	30 Day	Daily Max	Monitoring Frequency	Type of Sample
FLOW	70,000 GPD	100,000 GPD	Daily	Meter
pH	7.0 - 9.0	5.0 - 10.0	Daily	Grab
MBAS		50 mg/l	2/Month	24 hr. Composite
TKN	40 mg/l	60 mg/l	2/Month	24 hr. Composite
Phosphorus	10 mg/l	20 mg/l	2/Month	24 hr. Composite
Arsenic		0.2 mg/l	Semi Annual	24 hr. Composite
Cadmium		0.1 mg/l	Semi Annual	24 hr. Composite
Chromium		0.8 mg/l	Semi Annual	24 hr. Composite
Copper		0.8 mg/l	Semi Annual	24 hr. Composite
Iron		30.0 mg/l	Semi Annual	24 hr. Composite
Lead		0.2 mg/l	Semi Annual	24 hr. Composite
Nickel		1.8 mg/l	Semi Annual	24 hr. Composite
Selenium		0.2 mg/l	Semi Annual	24 hr. Composite
Silver		0.2 mg/l	Semi Annual	24 hr. Composite
Zinc		3.6 mg/l	Semi Annual	24 hr. Composite
Cyanide		0.15 mg/l	Semi Annual	24 hr. Composite
Phenolics		0.09 mg/l	2/Month	Grab
Chloroform		0.1 mg/l	Semi Annual	Grab
Benzene		0.13 mg/l	Semi Annual	Grab
Toluene		0.65 mg/l	Semi Annual	Grab
Xylenes		2.0 mg/l	Semi Annual	Grab
Diethyl Phthalate		0.2 mg/l	Semi Annual	Grab
Bis(2-ethylhexyl)phthalate		0.4 mg/l	Semi Annual	Grab
TTO		1.4 mg/l	Semi Annual	24 hr. Composite

THEREFORE, Marietta and the City do mutually agree as follows:

- 1) Operator shall provide the following services to Marietta:
 - a) All personnel services for operation of the facility. Staff provided by Operator for the Wastewater Pretreatment facility shall have received sufficient training as to be competent in the operation and maintenance of the facility and to perform the required recordkeeping throughout the contract duration. Staff scheduling will be at a minimum of one hundred and twenty (120) hours per month to maintain and operate the facility throughout the contract

duration. The hours per month includes both on and off site work specific to the completion of requisite facility tasks.

- b) All process control work.
 - c) All routine maintenance and usual repairs. Preventative Maintenance Budget up to \$3,000.00 per year. A force account will be established for these tasks and all unexpended fees at contract year-end will be credited to Marietta.
 - d) Administration including:
 - i) Budget
 - ii) Preventive Maintenance Program
 - e) All required sample collection, preparation and arrangements for transportation to a certified lab for analysis. Certified lab charges for sample analysis shall be sent to and paid by Marietta.
- 2) Marietta shall be responsible for the following:
- a) Provide electrical and water utilities as necessary for operation of the facility.
 - b) Provide replacement media as required for the continued proper operation of the facility.
 - c) Provide and maintain an inventory of spare parts as recommended by the manufacturer to ensure minimizing downtime of the facility. (See Attachment B)
 - d) Install an autodialer-type alarm system and provide telephone and/or cellular service for same in order to alert Operator's staff to alarm conditions when off-site.
- 3) Marietta shall pay to the City, for the above-described services, a yearly sum for the next three (3) years as follows:

TOTAL PERSONNEL SERVICES

\$51,240.00 (Sep 2014 – Aug 2015) - \$4,270 per month

\$52,680.00 (Sep 2015 – Aug 2016) - \$4,390 per month

\$54,180.00 (Sep 2016 – Aug 2017) - \$4,515 per month

- 4) Should Operator be required to provide services beyond the above-mentioned services, those services shall be provided only with prior authorization from Marietta and shall be billed at the following rates:

Mechanic	\$45.00 per hour
Laborer	\$35.00 per hour

CONTRACT DURATION TO RUN FROM September 3, 2014 TO August 31, 2017
PAYMENTS TO BE MADE ON A MONTHLY BASIS AND ARE DUE TO THE CITY
WITHIN THIRTY (30) DAYS OF INVOICE.

IN WITNESS WHEREOF, Marietta and the City have hereunto set their hands the day and year first above-mentioned.

By: _____

Attest: _____

MARIETTA CORPORATION

By: *[Signature]*

Attest: *Amy J. Bauer*

ATTACHMENT A

Article 1. ADDITIONAL SERVICES. In the event Marietta desires additional services to be rendered by Operator in connection with the operation of the plant beyond the scope of the services described in this Agreement, Operator agrees to perform said additional services, if ordered in writing, on a mutually accepted basis. The Operator without prior approval of Marietta shall undertake no additional work.

Article 2. CONFLICT OF INTEREST. Operator stipulates that, upon information and belief, no member of the governing body of Marietta, or officer or employee of Marietta, forbidden by Law, is interested in, will derive benefit from or is a party to this Agreement.

Article 3. PROVISIONS OF LAW. All provisions of law required to be made a part of this Agreement are hereby deemed incorporated herein. Performance under the terms and conditions of this Agreement shall be subject to and in conformance with all applicable laws.

Article 4. RESPONSIBILITY. Under this Agreement, the Operator shall manage the wastewater pretreatment facility in a professional manner at all times. The Operator shall be responsible for operating the treatment processes in the best possible way to meet the operating requirements of the City of Cortland, including effluent quality and overall maintenance. The Operator shall be responsible to establish and follow a Preventive Maintenance Program for all equipment comprising the pretreatment facility.

Article 5. TERMINATION.

(a) This agreement may be terminated in whole or in part in writing by Marietta for its convenience, provided that the Operator is given (1) not less than ninety (90) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.

(b) If termination for default is effected by Marietta, an equitable adjustment in the price provided for in this sub-agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the Operator at the time of termination may be adjusted to cover any additional costs to the recipient because of the Operator's default.

(c) If termination for default (fails to make payment or to provide or perform items listed on page 3) is effected by the Operator, or if termination for convenience is effected by Marietta, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the Operator for services rendered and expenses incurred prior to the termination.

(e) Upon Notice of Termination by either Marietta or the Operator, the Operator shall be obliged to continue to operate the Pretreatment Facility for a period not to exceed three (3) months from the date of the Notice if so desired by Marietta. During this period, the Operator shall work with a Marietta employee and/or representative to familiarize them with the treatment processes. During this period, the Operator shall oversee the operation of the Facility, with Marietta employee and/or representative working in a trainee position. The Operator will remain

responsible for the efficient operation of the processes. The Operator will not be responsible for any unauthorized changes in the treatment processes by Marietta employee and/or representative.

Article 6. REMEDIES. Except as may be otherwise provided in this agreement, all claims, counter-claims, disputes, and other matters in question between Marietta and the Operator arising out of or relating to this agreement or the breach thereof will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which Marietta is located. The parties agree that Cortland County shall be the proper venue of any such litigation or arbitration.

ATTACHMENT B

8.4 Recommended Spares (from Newterra O&M manual)

- Cleaning Chemicals:
 - Ultron (5G)
 - Citrate (5G)
 - Ultraflux (5G)
- pH Dosing Chemicals:
 - Caustic
 - Acid
- Gaskets:
 - 1", 2", 3", 4" diameter 1/8" thick, full face type, viton
- Pressure gauges:
 - 0-30 PSI, 0-60 PSI, 0-100 PSI
- Temperature Gauge:
 - 0-250°F
- Solenoid valves:
 - One of each type
- Compressed air filter/regulator
- Sponge balls
- Strainer basket and O-ring for basket strainer
- Rotameter flow meters
- Paddlewheel flow transmitter
- Pressure switches
 - 4-75 PSI
 - 8-225 PSI
 - 2-15 PSI
- 3" butterfly valve
 - Gear operated
 - Lever operated
- Plastic float type level switch for permeate discharge tank
 - Normally open type
 - Normally closed type
- Tank level transmitter
- Set of sixteen (at least one pass worth) ultrafiltration membranes
- Chemical metering pump
- pH adjustment dosing pump
- pH sensor probe and sleeve
- HS200 media (1500 LBS)
- Liquid phase carbon media, acid washed, 8x30, coconut shell, virgin (4000 LBS)
- Fuses for disconnects
- Fuses for instrumentation
- Thermal overloads for motor starters
- PLC processor
- PLC power supply

- I/O modules:
 - digital input
 - digital output
 - analog input
- Cmore touch screen with program loaded up
- Circuit breakers
- Relays
- 24VDC power supply

mayorofc

From: Steve Wineburg <logo@bernards.biz>
Sent: Thursday, August 28, 2014 10:57 AM
To: mayor
Subject: Common Council Meeting 9/2/14

Good morning, Joseph Hage (Stone Lounge) and I (Bernard's Custom Logo) are planning the nation's largest ALS Challenge for Sunday, October 5, 2014 at 4:00pm. We are requesting that the common council approves that Main Street from Tompkins to Williams Streets be closed from noon until 5:00pm for setup and breakdown. We are also requesting that we have a police presence and that the fire department help hose down the crowd similar to what Cortlandville did for the Jets ALS Challenge. We have committed ourselves to paying for the first 1,000 t-shirts totaling \$5,000.00. In return each participant donates \$20.00 and will receive a free t-shirt and all proceeds will all be donated to charity. We have SUNY Cortland, President Bitterbaum's and Mayor Tobin's full endorsement and SUNY Cortland will be helping to promote this event. We also have the support from ALS. We are expecting a minimum of 1,000 people but could have several thousand people. Suny Cortland will also be reaching out to national media and we feel this will be a great non-drinking event for Cortland and will raise a minimum of \$20,000.00 for ALS and be a big boost for Cortland. At events end we will be challenging 2 SUNY Schools & Ithaca College to answer the ALS challenge so that more money can be raised for a great cause.

Thank You,

Steve Wineburg
Bernard's Custom Logo
107-111 Main Street
Cortland, NY 13045
607-756-5951
email: logo@bernards.biz
www.bernardscustomlogo.com

Jurisdiction: Cortland County
Jurisdictional Class: Competitive
Adopted: 10/20/05

SENIOR ACCOUNT CLERK

DISTINGUISHING FEATURES OF THE CLASS:

The work involves responsibility for the independent performance of moderately difficult financial accounts and records maintenance. The work may require decision making as to methods to be used and classification of records and accounts. The incumbent is responsible for entering and retrieving information using computer database/spreadsheet software. This position differs from Account Clerk in that duties are more complex and represent a higher level of responsibility and independent judgement in the performance of work assignments. This position differs from that of Principal Account Clerk in that this position does not involve the extent of independent judgement and complexity of tasks. The work is performed under general supervision and although the incumbent may train lower level clerical workers, supervision need not be a responsibility of this position. Does related work as required.

TYPICAL WORK ACTIVITIES: (Illustrative only)

Reviews a variety of complex financial documents, classifies them and distributes items into a variety of accounts according to prescribed procedures and policies;
Posts figures to appropriate accounts, makes all necessary adjustments in balances and verifies and reconciles balances; renews status of accounts as adjustments are made and takes appropriate action as authorizing payment, issuing checks or preparing bills;
Tracks, audits and monitors a variety of accounts;
Verifies adjustments are made to correct allocations and issues reports as required;
Prepares complex financial or statistical summary reports;
Checks for accuracy of computations and completeness or supervises the preparation of daily, weekly and monthly reports which are compiled into summary reports or claims for state or federal reimbursement;
Prepares in final format, accounting and financial statements, payrolls, statistical tabulations and data, form letters, memoranda, vouchers, reports, requisitions or data from various equipment as the source material;
Prepares funds for deposit into book accounts, reconciles accounts and prepares reports from information;
Contacts clients, vendors or other agencies to obtain additional information;
Provides information orally or in writing in response to inquiries on status of accounts;
Processes, sorts, indexes, records and files a variety of control records and reports, or supervises the process;
Performs complex payroll transactions or may prepare payroll for entire department and prepare all related reports;
Operates calculator, peripheral computer equipment and other office equipment;
May assist in preparation of figures and reports for use in budget preparation.

FULL PERFORMANCE KNOWLEDGE, SKILLS, ABILITIES AND PERSONAL CHARACTERISTICS:

- Good knowledge of modern methods used in keeping and checking financial accounts and records, including computer financial software;
- Good knowledge of modern office terminology, procedures, equipment and business English;
- Ability to make complex arithmetic computations involving fractions, decimals and percentage accurately;
- Ability to operate a personal computer and utilize common office software programs including word processing, spreadsheet and databases at an acceptable rate of accuracy and speed;
- Ability to organize and maintain accurate records and files;
- Ability to analyze and organize data and prepare records and reports;
- Ability to understand and interpret complex oral instructions and/or written directions;
- Ability to establish and maintain effective working relationships with others;
- Ability to perform close, detail work involving considerable visual effort and concentration;
- Ability to establish and maintain effective working relationships with others;
- Ability to communicate effectively, both orally and in writing;
- Physical condition commensurate with the demands of the position.

MINIMUM QUALIFICATIONS: Either

- (a) Graduation from a regionally accredited college or university or one accredited by the New York State Board of Regents to grant degrees with an Associate's degree or higher in accounting, mathematics, business administration or closely related field; or
- (b) Graduation from high school or possession of a high school equivalency diploma and two (2) years of experience maintaining financial accounts and records; or
- (c) An equivalent combination of training and experience as defined by the limits of (a) and (b).

NOTE: Successful completion of coursework in accounting, business administration, or closely related field at a regionally accredited college or university, or one accredited by the New York State Board of Regents to grant degrees, may be substituted for the required experience with three semester credit hours of related coursework, as indicated above, being equivalent to three months of experience.

mayorofc

From: Mack Cook
Sent: Friday, August 22, 2014 2:11 PM
To: mayorofc
Subject: Resolution for next Council's meeting

Consideration of a Resolution to authorized the offering of Dental Insurance Plan and/or a Vision Insurance Plan provided by the CSEA Employee Benefit Fund (Benefit Fund) to employees and retirees eligible to participate in the City's Health Insurance Plan. The City is neither an administrator nor sponsor of said dental/vision plan and functions solely as a collection and remittance agent at the request of the Benefit Fund. The cost of said dental and/or vision insurance is borne solely by the participating employee/retiree.

GREATER

TOMPKINS COUNTY MUNICIPAL

HEALTH INSURANCE CONSORTIUM

Municipalities building a
stable insurance future.

125 E. Court Street

Ithaca, NY 14850

607-274-5590

INFO: consortium@twcny.rr.com

www.tompkinscountyny.gov/hconsortium

**RESOLUTION NO. - AUTHORIZATION FOR CHAIR TO SIGN CONTRACT - CSEA
DENTAL/VISION PLAN**

Whereas, members of the GTCMHIC have access to dental and vision coverage through CSEA, and

Whereas, this benefit is not a Consortium product, so the premium costs are a straight pass through with those members protected by this benefit paying all of the premium cost, and

Whereas, the members using this benefit from CSEA are very happy with the cost and benefit coverage, now therefore be it

RESOLVED, on recommendation of the Audit and Finance Committee, That the GTCMHIC Board of Directors authorizes the Chairperson to sign a three contract for this benefit package with CSEA Employee Benefit Fund

Mack Cook

From: Brad Breen <bbreen@CSEAEBF.ORG>
Sent: Wednesday, August 27, 2014 2:32 PM
To: Stephen Locey
Cc: Judy Drake (JDrake@town.ithaca.ny.us); 'hart@trumansburg-ny.gov'; Don Barber - GTCMHIC (EDConsortium@twcny.rr.com); 'Don Barber (2)'; Mack Cook; 'Michelle Pottorff (consortium@twcny.rr.com)'; Judy Taber
Subject: RE: GTCMHIC - Member Eligibility

After reviewing the language in the original agreement, it is now my understanding that every public sector employee within a participating group of the Consortium is eligible if they elect coverage. I apologize for any confusion that has come about.

I look forward to meeting the Board of Directors' members I haven't met yet.

Thanks and have a good day all,

Brad Breen

Sr. Benefits Specialist,
Region 5
(518)782-1500 ext. 813
(800) 323-2732 ext. 813
(518) 782-9979 (fax)
www.cseabf.org

From: Stephen Locey [mailto:slocey@loceycahill.com]
Sent: Tuesday, August 26, 2014 9:28 AM
To: Brad Breen
Cc: Judy Drake (JDrake@town.ithaca.ny.us); 'hart@trumansburg-ny.gov'; Don Barber - GTCMHIC (EDConsortium@twcny.rr.com); 'Don Barber (2)'; 'Mack Cook (mcook@corland.org)'; 'Michelle Pottorff (consortium@twcny.rr.com)'; Judy Taber
Subject: GTCMHIC - Member Eligibility
Importance: High

Brad:

We have been copied in on some e-mail communications that have been going back and forth relative to the Greater Tompkins County Municipal Health Insurance Consortium (GTCMHIC) and the member eligibility requirements for employees to participate in the CSEA Employee Benefit Fund (EBF) Dutchess Dental Plan and Platinum 12 Vision Plan.

With the changes in representation from the CSEA EBF since the inception of the Consortium, we believe the understanding of what was agreed to has been missed during this back and forth on the issue of eligibility. As you may be aware, the availability of the CSEA EBF Dental and Vision Plans was a critical component of the development of the Consortium as we needed to find a comparable replacement to the Teamsters Health & Welfare Fund Plans which included dental, vision, disability, life, accidental death and dismemberment, and legal services coverage. In late 2010, as a result of CSEA's relationship with the County of Tompkins and several other municipalities in the GTCMHIC, the CSEA EBF agreed to provide dental and vision benefits to all employees in the Consortium and this understanding was in the original agreement. Please refer to the attached contract, Section I, Paragraph 1 (emphasis added) as follows:

I. Definitions

1. COVERED EMPLOYEE shall mean every public sector employee validly appearing on a PARTICIPANT'S payroll who elects to be covered;

As we stated above, the understanding when this contract was established was that the CSEA EBF Dutchess Dental Plan and Platinum 12 Vision Plan were being used by the Consortium as a mechanism to replicate and replace the prior benefits offered to those employees who were previously covered by the New York State Teamsters Health & Welfare Fund benefit plans. This was clearly articulated throughout the process and we believe this was the reason the broad definition summarized above was included.

The renewal agreement references the original agreement. As a result, it is our professional opinion that the membership and eligibility requirements for the Greater Tompkins County Municipal Health Insurance Consortium as they relate to the dental and vision plans offered by the CSEA EBF should remain unchanged. Obviously, being new to the process, you may not have been aware of the history and unique circumstances surrounding the GTCMHIC and the relationship with the CSEA EBF.

We hope the above information helps clarify matters concerning the member eligibility associated with the GTCMHIC and how it is very different from the standard relationships municipalities have with the CSEA EBF. As always, please let us know if you have any questions or if we can be of any further assistance.

Thank You,
Steve Locey

Stephen P Locey
President, CEO
Locey & Cahill, LLC
120 Walton Street, Suite 500
Syracuse, NY 13202
Tel 315-425-1424
Cell 315-727-3344
Fax 315-425-1394

GENERAL INFORMATION

Enrollment

Coverage under the Plans offered by the CSEA Employee Benefit Fund is not automatic. You must first enroll yourself and your dependents in the Fund. There is one enrollment form which enrolls you in the Plan(s) negotiated for you. If you have not already done so, you can obtain an enrollment form by calling the Fund at 800-323-2732. You can also visit www.cseaebl.com to use the "enroll online" option. You can also download an enrollment form from the website for later submission.

Enrollment in the plan does not vest any right in the covered employee except the right to receive benefits under the plan only so long as payments are being received by the Fund on behalf of the employee. Return the completed enrollment form and any additional information required by the Fund.

WHO IS ELIGIBLE

Full-Time Employee

- If you are a full-time employee in a CSEA represented bargaining unit that has negotiated with your employer for Fund coverage.

Part-Time Or Seasonal Employee

- If you are a part-time or seasonal employee in a CSEA represented bargaining unit that has negotiated with your employer for Fund coverage.

NOTE: An employee may not be covered both as an employee and as a dependent of an employee. If both parents are Fund members, coverage for children may not be claimed under both parents.

Dependents

- If your collective bargaining agreement includes dependent coverage, your dependents become eligible at the same time you do.

- You must notify the Fund promptly of changes in dependent status to ensure that new dependents receive the appropriate coverage and to avoid responsibility for charges incurred by an individual after he or she has ceased to be your dependent.

Dependents Include:

- Spouse**
 - Your spouse. This includes a person of the same sex to whom the covered employee was married in a jurisdiction permitting same sex marriages. A spouse can be removed upon entry into a legal separation. If you become divorced, you must remove your ex-spouse upon the finalization of divorce.

Domestic partner

- Domestic Partner coverage may be offered by your employer. Please contact your employer for additional information.

Children

- Your unmarried children, including stepchildren who permanently reside with you and legally adopted children, under the age of 19.

- Your legal ward under the age of 19 who permanently resides with you pursuant to a court order awarding legal guardianship to you.

- Any child or ward described above, regardless of age, who is incapable of self support by reason of mental or physical disability, provided he or she became so disabled prior to reaching the age of 19.

- Any child or ward described above under the age of 25 who is a full time student (minimum of 12 undergraduate or 6 graduate credit hours) enrolled in a regionally accredited college or university and working toward a Bachelor's Degree (e.g., B.A. or B.S.), Master's Degree (e.g., M.A. or M.S.) or Associate's Degree (e.g., A.A. or A.S.). Technical courses of short duration do not qualify, even if a diploma is awarded. The Fund requires that current proof of student status be provided annually (letter or statement from the college's Registrar's Office or completion of Student Status Form available from the Fund).

NOTE: This form is used only to update/validate the CSEA EBF dependent student eligibility file. Your Health Insurance carrier may require different or additional evidence of dependent student enrollment. We suggest that you obtain a letter of student enrollment from the school registrar to avoid delays in processing health insurance claims for your child.

C.O.B.R.A.

- If you become ineligible for Fund coverage because of retirement, termination, layoff, leave without pay or reduction in hours, you may have certain rights to continue Plan coverage through C.O.B.R.A. Under these and certain additional circumstances, your spouse and/or dependent(s) may have rights to continue coverage through C.O.B.R.A. as well.
- Before your payroll status changes, ask your employer for details about continuing coverage through C.O.B.R.A.

Appeal Procedure

- If you feel that you did not receive full benefits, you may appeal to the Fund. Send a letter to the Fund explaining why you feel you did not get the full amount to which you were entitled. Include copies of supporting documentation.
- ALL appeals must be submitted within 60 days of the determination being appealed. This procedure is not designed to cover services clearly not covered by the Plans.

CSEA EMPLOYEE BENEFIT FUND WEBSITE

- Find the most up to date information on your dental benefits by visiting our website at www.cseaebl.com
- Save valuable time by printing dental plan information, provider listings and EBF forms.

DUTCHESS DENTAL PLAN How To Use This Plan

- You may use any licensed dentist for dental care.
- The Fund contracts with participating dental offices to accept the fee schedule as full payment for covered

services whether payment is made by you or by the Fund through an assignment of benefits.

- If you would like to view our Directory of Dental Care Providers, you can request a copy by calling us at 800-323-2732 or go to our website www.cseaebl.com.
- Specialists within participating general practices may have the right to bill members for the difference between the specialist's customary charge and the allowance which the CSEA Employee Benefit Fund pays under the Dutchess Dental Plan. The Specialist must inform the Fund and the member that he/she will not be accepting the plan allowance as payment in full and must provide proof of specialty status to the Fund.
- If you choose a non-participating dentist, and are charged more than the amount listed under the schedule of allowances, you must pay the difference. (See schedule of allowances.)
- The Fund does not recommend that you use any particular dentist, either participating or non-participating.
- A universal American Dental Association (ADA) claim form, available through your dental provider, or a CSEA claim form which may be obtained from our website, www.cseaebl.com must be used to submit for completed services. Electronic claims are also accepted.

Submit all dental claim forms to:
CSEA EMPLOYEE BENEFIT FUND
P.O. Box 489 • Latham, NY 12110-0489

Maximum Benefit – Dental Plan

- There is a \$3210.00 a year maximum on dental benefits.
- \$3210.00 a year of covered dental benefits is available for each member and dependent.
- For year 2014 and on, there is no annual maximum for children under the age of 19.
- This maximum is on a calendar-year basis (January through December).

Pre-Authorization of Benefits

- Whenever the estimated cost of a recommended dental treatment exceeds \$500.00, we advise the submission of a preauthorization before the work begins.
- Use a dental claim form for this submission and include the related x-rays.
- After review, the Benefit Fund will notify the member and the dentist of the benefits payable based upon the treatment plan.
- In determining the amount of benefits payable, consideration will be given to alternate procedures that will accomplish a professionally acceptable result.
- If the member and the dentist agree to a more expensive method of treatment than that pre-authorized by the Benefit Fund, the amount exceeding the pre-authorized will not be paid by the Fund even if it would otherwise be a covered service.
- If you have work done for over \$500.00 without submitting a pre-authorization first, your claim will be reviewed under the alternate treatment provision.

- We strongly recommend that whenever you are discussing your treatment plan with your dentist, you clearly understand what is being proposed. If we recommend alternate benefits, you should also discuss this with your dentist. A pre-authorization is not a guarantee of benefits. Payment is always subject to eligibility at the time of service.

CSEA EBF DUTCHESS DENTAL PLAN SCHEDULE OF ALLOWANCES COVERED SERVICES

DIAGNOSTIC SERVICES

CLINICAL ORAL EVALUATION (EXAMINATION)	
Evaluation – periodic, comprehensive or detailed (2 evaluations per calendar year)	\$ 44.00
Evaluation – limited (1 per calendar year)	\$ 44.00

DENTAL RADIOGRAPHS

Intraoral complete series, including bitewings (1 per 3 years)	\$100.00
or Panoramic (1 per 3 years)	\$100.00
There is a three year limitation for full series and/or panoramic radiographs.	
Intraoral Periapical film (Maximum 6 per year) Not to be covered in same year as complete series or panoramic film	\$ 10.00
Intraoral occlusal film (2 per 3 years)	\$ 30.00
Not covered in same year as Intraoral complete series	
Cephalometric film (1 per calendar year)	\$ 100.00

Tests and Laboratory Examinations	
Palp vitality test (1 per calendar year)	\$ 20.00

PREVENTIVE SERVICES

Dental prophylaxis, adult-12 yrs and over (2 per calendar year)	\$ 80.00
Dental prophylaxis, child-under 12 yrs (2 per calendar year)	\$ 65.00
Fluoride, Under age 19 (2 per calendar year)	\$ 20.00
Sealants, Under age 19, per tooth covered on bicuspids and molars in the permanent dentition only (1 per 3 years)	\$ 28.00
Space maintainers, under age 19 (1 per life)	\$100.00
Unilateral, fixed space maintainer	\$180.00
Bilateral, removable space maintainer	\$100.00
Bilateral, removable space maintainer	\$180.00

RESTORATIVE - FILLINGS

AMALGAM RESTORATIONS - (1 per surface per tooth per year) Includes tooth preparation, all adhesives, liners and bases and polishing to restore a tooth to proper form and function.

PERMANENT OR PRIMARY TEETH	
Amalgam-one surface	\$100.00
Amalgam-two surfaces	\$125.00
Amalgam-three surfaces	\$160.00
Amalgam-four or more surfaces	\$160.00

RESIN-BASED COMPOSITE RESTORATIONS (1 per surface per tooth per year) Includes tooth preparation, acid etching, adhesives, liners, bases, curing and the broad category of materials called resin-based composites.

PERMANENT OR PRIMARY TEETH (Anterior or Posterior)	
Resin-based, one surface	\$105.00
Resin-based, two surfaces	\$140.00
Resin-based, three surfaces	\$185.00
Resin-based, four or more surfaces, or involving incisal angle	\$185.00

RESTORATIVE - CROWNS AND INLAYS/ONLAYS

These services are limited to permanent teeth, as scheduled. Crowns and inlays are covered for the restoration of teeth which, as the result of extensive decay or fracture, cannot be restored with an amalgam or resin-based composites material. All crown work will be professionally reviewed for necessity and appropriateness of the planned treatment, taking into account the occlusions and limitations of the Plan. Benefits are payable only upon insertion.

Casings - (1 per 5 years)	
Resin (permanent, anterior teeth only)	\$200.00
Resin fused to metal	\$460.00
Porcelain/Ceramic	\$775.00
Implant/abutment supported, porcelain	\$775.00
Porcelain fused to metal	\$775.00
Implant/abutment supported, porcelain fused to metal	\$775.00
3/4 cast metal	\$475.00
Full cast metal	\$650.00
Implant/abutment supported, full cast metal	\$650.00
Inlays/Onlays - (1 per 5 years)	
Inlay/onlay, one surface	\$300.00
Inlay/onlay, two surfaces	\$420.00
Inlay/onlay, three or more surfaces	\$440.00

Other Restorative Services

Retention inlay (1 per year)	\$ 20.00
Retention crown (1 per year)	\$ 40.00
Stainless Steel crowns, deciduous teeth only (1 per tooth per 5 years)	\$ 75.00
Corn build-up, pin retained (1 per life)	\$ 75.00
Pin retention, per tooth (1 per year)	\$ 26.00
Fast and sure, cast or prefabricated, per tooth (1 per 5 years)	\$165.00

ENDODONTICS

Root Canal Therapy (1 per tooth per lifetime)	
Benefits for root canal therapy are limited to permanent teeth and are payable upon completion.	
Root canal therapy, anterior	\$475.00
Root canal therapy, bicuspids	\$575.00
Root canal therapy, molar	\$675.00

OTHER ENDODONTIC/PERRADICULAR SERVICES

Pulp capping, direct or indirect (1 per 12 months)	\$ 20.00
Pulpotomy, deciduous teeth only (1 per lifetime)	\$ 75.00
Apicoectomy, 1st root (1 per lifetime)	\$220.00
Apicoectomy, each additional root	\$125.00
(General Anesthesia/IV Sedation covered with apicoectomy)	

Retrograde filling, per root, in conjunction with apicoectomy (1 per lifetime)..... \$ 80.00

PERIODONTICS

Gingivectomy and Osseous surgery will be professionally reviewed for necessity and appropriateness of the planned treatment, taking into account the exclusions and limitations of the Plan. The treatment plan must be accompanied by periodontal charting for osseous surgery and gingivectomy. Benefits will be paid for only the most comprehensive surgical procedure necessary in each site. The allowance will be made on a quadrant or sextant basis. Periodontic benefits are not usually paid for procedures performed on patients under 19 years of age. Exceptions can be made based on documented medical necessity.

Gingivectomy or gingivoplasty, per quadrant (1 per 4 years)..... \$375.00

Osseous surgery, per quadrant (1 per 4 years)..... \$700.00

Periodontal scaling and root planing, per quadrant (2 times per calendar year) limited to 2 quadrants per visit..... \$ 48.00

Periodontal maintenance procedure (2 per calendar year, either prophylaxis or periodontal maintenance procedure)..... \$ 60.00

PROSTHODONTICS (REMOVABLE)

A benefit will be paid for a permanent partial denture replacing an interim denture after 6 months but no longer than 12 months from the date the interim denture was inserted. The Plan will pay for no other installation within the next 5 year period. Benefits are payable upon insertion. Allowance includes all refines and adjustments for 6 months.

COMPLETE DENTURES (1 per 5 years)
Full upper or lower denture (permanent)..... \$850.00

Full upper or lower denture implant/abutment supported..... \$850.00

PARTIAL DENTURES (1 per 5 years)
Partial upper or lower denture, permanent abutment supported..... \$850.00

Unilateral partial upper or lower denture, permanent..... \$450.00

Partial upper or lower denture, interim (anterior teeth only)..... \$250.00

ADJUSTMENT TO DENTURES (after six months of insertion) (1 per year)..... \$ 50.00

REPAIRS TO FULL/COMPLETE DENTURES
Repair broken complete denture base (1 per year)..... \$125.00

Replace missing or broken teeth (limited to 4 per calendar year)..... \$ 75.00

REPAIRS TO PARTIAL DENTURES
Repair resin denture base (1 per year)..... \$125.00

Repair cast framework (1 per year)..... \$125.00

Repair, replace or add clasp to existing partial denture (limited to 4 per calendar year)..... \$ 85.00

Replace or add tooth to existing partial denture (limited to 4 per calendar year)..... \$ 75.00

REBASE FULL DENTURE, Full denture only (1 per 2 years)
Rebase complete maxillary or mandibular full denture..... \$250.00

Rebase or Dentures upper or lower (1 per 3 years)
Resin full denture, chalside or laboratory..... \$200.00

Resin partial denture, chalside or laboratory..... \$200.00

PROSTHODONTICS (FIXED)

All fixed bridge units will be professionally reviewed for necessity and appropriateness of the planned treatment, taking into account the exclusions and limitations of the Plan. Benefits are payable upon insertion of the fixed bridge.

Partica (1 per 5 years)
Cast metal, full..... \$475.00

Porcelain fused to metal..... \$600.00

Porcelain/Ceramic..... \$600.00

Resin fused to metal..... \$425.00

ABUTMENTS (FIXED BRIDGE RETAINERS) INLAYS/ONLAYS (1 per 5 years)
Inlay/Onlay, two surfaces..... \$420.00

Inlay/Onlay, three or more surfaces..... \$440.00

Retainer for Maryland-type bridge..... \$300.00

ABUTMENTS (FIXED BRIDGE RETAINERS) CROWNS (1 per 5 years)
3/4 Cast metal..... \$475.00

Cast metal, full..... \$650.00

Implant/abutment supported, cast metal..... \$650.00

Porcelain fused to metal..... \$775.00

Implant/abutment supported, porcelain fused to metal..... \$775.00

Implant/abutment supported, porcelain/ceramic..... \$775.00

Resin fused to metal..... \$460.00

OTHER FIXED PARTIAL DENTURE SERVICES
Recement bridge (1 per year)..... \$ 70.00

ORAL SURGERY
Extractions (1 per tooth per lifetime)
Extract coronal remnants, primary tooth..... \$110.00

Erupted tooth or exposed root..... \$150.00

Surgical removal..... \$200.00

Soft tissue impaction..... \$300.00

Partial bony impaction..... \$350.00

Full bony impaction..... \$400.00

Surgical removal of residual roots..... \$200.00

OTHER ORAL SURGERY PROCEDURES
Surgical access of an unerupted tooth..... \$300.00

(Once per lifetime)
Biopsy of oral tissue, hard or soft (tissue removal) (1 per year)..... \$100.00

Abscessplasty in conjunction with extractions, per quadrant (1 per lifetime)..... \$160.00

Abscessplasty not in conjunction with extractions, per quadrant (1 per 5 years)..... \$160.00

Incision and drainage, intraoral (1 per calendar year) (General anesthesia/IV sedation not covered with this procedure)..... \$ 75.00

Frenulectomy (1 per life)..... \$200.00

ORTHODONTICS

Provided for employees, spouses and unmarried dependent children enrolled in the plan. This plan covers adult orthodontics.

If a cosmetic upgrade (ex. invisalign® or clear brackets) is chosen and treatment is provided by a participating provider, the member may be responsible for a one time cosmetic upgrade fee, to be discussed prior to treatment.

Limited/Interceptive/Appliance Therapy..... \$500.00 (Once per lifetime, prior to comprehensive treatment and not an integral part of comprehensive treatment. Additional appliances and office visits are the responsibility of the member.)

Comprehensive orthodontic treatment, appliance insertion (Once per lifetime)..... \$650.00

Periodic orthodontic treatment visit (A benefit is provided for 24 completed active monthly treatment visits per life. Treatment visits beyond 24 months are the responsibility of the member, at the EBF allowance rate, when treatment is provided by a participating provider.)..... \$ 95.00

Passive Treatment (for cases started after 8/1/01/14) (one treatment benefit per lifetime per lifetime)..... \$300.00

ADJUNCTIVE GENERAL SERVICES
Palliative (emergency) treatment of dental pain (1 per calendar year)..... \$ 44.00

General anesthesia (per covered oral surgery visit)..... \$200.00

or Intravenous sedation (per covered oral surgery visit)..... \$200.00

Occlusal adjustment, limited (1 per 4 years)..... \$ 50.00

Occlusal adjustment, complete (1 per 4 years)..... \$175.00

EXCLUSIONS AND LIMITATIONS

Replacement of Crowns and Prosthetic Appliances

- There is coverage for replacement of an existing crown, partial or full removable denture or replacement of fixed bridgework by a new denture or bridgework, or the addition of teeth to an existing partial removable denture or to bridgework to replace extracted natural teeth, only if the Plan is furnished satisfactory evidence that: (a) The existing denture or bridgework was inserted at least five years prior to its replacement and that the existing denture or bridgework cannot be made serviceable by a dentist or (b) In the case of a crown, that at least five years has elapsed since the crown was inserted.

In addition to the exclusions and limitations as stated in the CSEA Dutchess Dental Plan Schedule of Allowances and these listed above, this Plan does not cover:

- charges for any type of service or appliance not described in schedule of allowances;
- treatment by other than a licensed dentist or dental hygienist acting within the scope of licensure;
- services and supplies that are primarily cosmetic in nature.

- replacement of a lost or stolen prosthetic appliance.
- duplicate prosthetic appliances or services.
- charges for surgical implants.
- dentures, crowns, inlays, bridgework or appliances to change or maintain vertical dimension.
- precision or other elaborate attachments or features for dentures, bridgework or any other dental appliances.
- any service rendered or appliance inserted before the eligibility date under this Plan, or after the termination date.
- splitting.
- treatment covered by Workers' Compensation or similar law
- charges for expenses which are reimbursable through "no-fault" automobile insurance.
- any claim or appeal that is submitted after a period that exceeds one year from the calendar year in which dental services were rendered.
- temporary dental services which will be considered an integral part of the final dental service rather than a separate service.

Coordination of Benefits

Since it is not intended that the patient receive greater benefits than the actual expenses covered, the amount of benefits payable under the CSEA Dutchess Dental Plan will take into account any coverage the employee (or eligible dependent) has under other group plans. In other words, the benefits under the CSEA Dutchess Dental Plan will be coordinated with the benefits of the other group plans.

NOTE: An employee may not be covered both as an employee and as a dependent of an employee. If both parents are Fund members, coverage for children may not be claimed under both parents.

Birthday Rule

Coordination of benefits regulations state that the primary payer of benefits for dependent children is determined by the parent who has the earlier date by month and day, without regard to the year of birth.

CSEA EMPLOYEE BENEFIT FUND

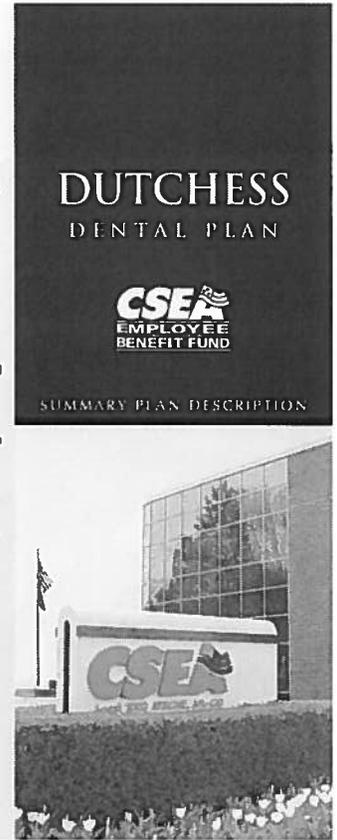
Danny Donohue, Chairman
One Lear Jet Lane, Suite 1
Latham, NY 12110-2395

(800) 323-2732

(Telephone Device For The Deaf)
TDD # 1-800-832-3833

www.cseabf.com

7/14



GENERAL INFORMATION

Enrollment

Coverage under the plans offered by the CSEA Employee Benefit Fund is not automatic. You must first enroll yourself and your dependents in the Fund. There is one enrollment form which enrolls you in the plan(s) negotiated for you. If you have not already done so, you can obtain an enrollment form by calling the Fund at 1-800-323-2732 or (518) 782-1500.

Enrollment in the plan does not vest any right in the covered employee except the right to receive benefits under the plan only so long as payments are being received by the Fund on behalf of the employee.

Return the completed enrollment form and any additional information required by the Fund.

SUBMIT ALL ENROLLMENT FORMS TO:
CSEA Employee Benefit Fund
P.O. Box 516
Latham, NY 12110-0516

WHO IS ELIGIBLE

Full-Time Employee

- ~~If you are a full-time employee in a CSEA represented bargaining unit that has negotiated with your employer for Fund coverage.~~

Part-Time Or Seasonal Employee

- ~~If your collective bargaining agreement includes coverage for certain part-time and seasonal employees.~~

Domestic Partner

~~Coverage may be offered by the employer. Please contact your employer for additional information.~~

NOTE: An employee may not be covered both as an employee and as a dependent of an employee. If both parents are Fund members, coverage for children may not be claimed under both parents.

Dependents

- If your collective bargaining agreement includes dependent coverage, your dependents become eligible at the same time you do.

- You must notify the Fund promptly of changes in dependent status to ensure that new dependents receive the appropriate coverage and to avoid responsibility for charges incurred by an individual after he/she has ceased to be your dependent.

Dependents Include:

- Your spouse. This includes a person of the same sex to whom the covered employee was married in a jurisdiction permitting same sex marriages. A spouse can be removed upon entry into a legal separation. If you become divorced, you must remove your ex-spouse upon the finalization of divorce.
- Your unmarried children, including stepchildren who permanently reside with you and legally adopted children, under the age of 19.
- Your legal ward under the age of 19 who permanently resides with you pursuant to a court order awarding legal guardianship to you.
- Any child or ward described above, regardless of age, who is incapable of self support by reason of mental or physical disability, provided he or she became so disabled prior to reaching the age of 19.
- Any child or ward described above under the age of 25 who is a full time student (minimum of 12 undergraduate or 6 graduate credit hours) enrolled in a regionally accredited college or university and working toward a Bachelor Degree (e.g., B.A. or B.S.), Masters Degree (e.g., M.A. or M.S.) or Associate Degree (e.g., A.A. or A.S.). Technical courses of short duration do not qualify, even if a diploma is awarded. The Fund requires that current proof of student status be provided annually (letter or statement from the college's Registrar's Office or completion of Student Status Form available from the Fund).

Note: This form is used only to update/validate the CSEA EBF dependent student eligibility file. Your health insurance carrier may require different or additional evidence of dependent student enrollment. We suggest that you obtain a letter of student enrollment from the school registrar to avoid delays in processing health insurance claims for your child.

CSEA EMPLOYEE BENEFIT FUND WEBSITE

Find the most up to date information on vision benefits by visiting our website at www.cseaeaf.com. Save valuable time by printing vision plan information, provider listings and EBF forms.

C.O.B.R.A.

- If you become ineligible for Fund coverage because of retirement, termination, layoff, leave without pay or reduction in hours, you may have certain rights to continue plan coverage through C.O.B.R.A. Under these and certain additional circumstances, your spouse and/or dependent(s) may have rights to continue coverage through C.O.B.R.A. as well.
- Before your payroll status changes, ask your employer for details about continuing coverage through C.O.B.R.A.

Employee Transfers

Important Note: Employees who had vision coverage through the Fund under another employer must wait 12 months from their last service date before using the vision benefit under a new employer.

Appeal Procedure

- If you feel that you did not receive full benefits, you may appeal to the Fund.
- Send a letter to the Fund explaining why you feel you did not get the full amount to which you were entitled. Include copies of any supporting documentation.
- This procedure is not designed to cover clerical mistakes on claims, which may be corrected by a phone call to the Fund, nor is it meant for services clearly not covered by the plans or for exemptions to or waivers of required waiting periods.

PLATINUM 12 VISION CARE PLAN

The Platinum 12 Vision Care Plan offers quality optical services at no cost to members within the designated plan from one of the plan's panel providers. This includes a routine eye exam and eyeglasses OR contact lenses.

USING THIS BENEFIT

When in need of vision care services, call the Employee Benefit Fund 1-800-323-2732 to determine if you are eligible for benefits. Make an appointment with a participating provider who will then obtain an authorization for services from the Fund.

Using A Panel Provider

Please contact the Fund to verify eligibility. More than 500 panel providers are located throughout the State.

Using A Non-Panel Provider

When you choose to receive services from a doctor who does not participate as a CSEA panel provider, an Indemnity payment will be made directly to you for expenses, not to exceed:

Exam.....	\$16.00
Frame.....	\$11.00
Standard Lenses.....	\$14.00
Bifocals.....	\$23.00
Trifocals.....	\$32.00
Photochromic Lenses (Glass).....	\$12.00
Contact Lenses.....	\$125.00
Cataract Lenses.....	\$25.00
Cataract Bifocals.....	\$35.00
Cataract Contacts.....	\$33.00

BENEFIT PROVISIONS

Eyeglasses

Eligible members (and dependents, if covered) are entitled to an eye examination and one pair of glasses (lenses and frames) once in a 12 month period.

Dilation will be included at a participating panel provider whenever professionally indicated without any additional cost to the member.

The benefit includes: plastic, polycarbonate, glass, standard or premium progressive no-line bifocals or trifocals, glass photochromic lenses, cataract lenses, fashion tints, prescription sunglasses and scratch guard coating.

The frame collection includes designer styles and wire frames as well as the Premier Line found exclusively in the Platinum Plan. The frame collection is updated annually. For selections not included in the frame collection, the member is responsible for costs above the plan allowance.

Contact Lenses

- Plan contact lenses consist of soft planned replacement or disposables. You will be allowed \$125 toward non plan contact lenses.
- A Contact Lens Formulary is used which allows for an initial supply* of many of the most popular and commonly prescribed brands of soft contact lenses. If non-plan contact lenses are required, the allowance will be applied toward the total cost of the contact lenses.

*Duration of initial supply may vary depending on lens type, wearing habits and prescribing doctor's instruction regarding replacement schedule.

VISION DISCOUNT FIXED CO-PAYS

Major Plan Features

- Program offers fixed co-pays for lenses and coatings at any Fund participating provider office.
- Members/eligible dependents who wish to purchase lenses and coatings not currently covered by their vision program will be entitled to a set co-pay, resulting in substantial out-of-pocket savings.

Fixed Co-Pays Include:

- \$35.00 - Standard Anti-Reflective Coating
- \$48.00 - Premium Anti-Reflective Coating
- \$55.00 - Ultra Anti-Reflective Coating
- \$12.00 - Ultraviolet (UV) Coating
- \$65.00 - Plastic Photosensitive Lenses
- \$55.00 - High Index Lenses
- \$75.00 - Polarized Lenses
- \$50.00 - Ultra Progressive Lenses

How To Use This Benefit

- Use any CSEA Employee Benefit Fund panel vision provider. For a list of providers, please visit our website at www.cseaebf.com or contact us by calling 1-800-323-2732.
- Members who choose lenses and/or coatings not covered in their existing Fund vision plan will pay the fixed co-pay in the schedule listed above.

Limitations And Exclusions

- Member must be covered by the Fund under an existing vision program to be eligible for fixed co-pay(s). This discount is available only at the time of the eligible date of service. It is not available as a separate service outside of the employee's eligibility date.
- All portions of the benefit (exam plus corrective wear) must be billed simultaneously. All services must be performed on the same day. Benefits can not be split between two panel providers OR between a non-panel provider.
- Any benefit that is claimed after a period that exceeds one year from the calendar year in which vision services were rendered.
- Please note: fixed co-pays are not refundable. Payments for items not covered under the plan are the responsibility of the patient.

Substantial out-of-pocket expenses can be avoided by using panel providers. Contact the Fund for a claim form or visit our website at www.cseaebf.com.

Send all vision correspondence to:
CSEA EMPLOYEE BENEFIT FUND
P.O. BOX 516
LATHAM, NY 12110-0516

CSEA EMPLOYEE BENEFIT FUND

Danny Donohue, Chairman
One Lear Jet Lane, Suite One
Latham, NY 12110-2395
1-800-323-2732 • 518-782-1500
(Telephone Device For The Deaf)
TDD # 1-800-532-3833
www.cseaebf.com

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§ 107-2. Definitions.

RESPONSIBLE PARTY

Those shown to be the owner or owners of the records at the City of Cortland Assessor's office, those identified as the owner or owners on a vacant building registration form; a mortgagee in possession; a mortgagor in possession; a mortgagee upon the filing of a lis pendens and/or an action, the purpose of which is to foreclose upon the mortgage or similar instrument that secures debt upon the real property; assignee of rents; receiver; executor; trustee; lessee; other person; firm; or corporation in control of the premises; of any real property which is in violation of this chapter shall be a responsible party for compliance with the provisions of this chapter.

§ 107-3 Responsibility for Compliance

It is the responsibility of each owner to maintain their property in accordance with the provisions of this chapter. Where applicable, tenants or lessees shall receive enforcement notices in connection with enforcement; however, the owner is ultimately responsible for compliance with this chapter.

§ 107-4 (B)

The name, street address and telephone number of a natural person 21 years of age or older, designated by the responsible person as the authorized agent for receiving process, in any court proceeding or administrative enforcement proceeding, on behalf of such responsible party or parties in connection with the enforcement of provisions of this chapter. This person must maintain an office in Cortland County, NY or must actually reside within Cortland County, NY. An owner who is a natural person and who meets the requirements of this subsection as to location of residence or office may designate himself as an agent. By designating an authorized agent under the provisions of this subsection the owner is consenting to receive any and all notices under the provisions of this chapter, the responsible party is consenting to receive any and all notices of code violations concerning the registered real estate and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered real estate by service of the notice or process on the authorized agent. Any responsible party who has designated an authorized agent under the provisions of this chapter shall be deemed to consent to the continuation of the agent's designation for the purposes of this subsection until the responsible party notifies the Code Enforcement Office of a change of authorized agent or until the responsible party files a new annual registration statement. Any responsible party who fails to register vacant real property under the provisions of this chapter shall further be deemed to consent to receive, by posting at the real estate any and all notices of code violations and all processes in an administrative proceeding brought to enforce code provisions concerning real estate.

§ 107-4

The party responsible for any building that has become vacant shall, within 30 days, acquire or otherwise maintain liability insurance in an amount of not less than \$300,000.00 for buildings designed primarily for use as residential units and not less than \$1,000,000.00 for any other building including but not limited to, buildings designed for manufacturing, industrial storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building. Any insurance policy acquired after the building has become vacant shall provide for written notice to the commissioner of building within 30 days of any lapse, cancellation or change in coverage. The responsible party or the responsible party authorized agent for service of process shall provide evidence of the insurance, upon request, to the Code Enforcement Office.

§ 107-4 Fees (A)

1. For the second year that the building remains vacant: the lesser of either \$5,000.00 or the annual aggregate of city, county, and school property taxes.
Should the responsible party remedied, to the satisfaction of the Code Enforcement Office, all conditions which caused the building to be defined as "vacant," per section 107-2, by the end of the second year, all fees paid for the second year shall be reimbursed.
2. For the third year that the building remains vacant: The lesser of either \$10,000.00 or twice the annual aggregate of city, county, and school property taxes.

Should the responsible party remedied to the satisfaction of the Code Enforcement Office, all conditions which caused the building to be defined as "vacant" per section 107-2 by the end of the third year, all fees paid for the third year shall be reimbursed.

3. For the Fourth year that the building remains vacant: the lesser of either \$15,000.00 or the thrice the annual aggregate of the city, county and school property taxes. Should the responsible party remedied to the satisfaction of the Code Enforcement Office, all conditions which caused the building to be defined as "vacant" per section 107-2 by the end of the fourth year, one half of all the fees paid for the fourth year shall be reimbursed.
4. Starting in the fifth year and continuing each year thereafter that the building remains vacant: the lesser of either \$20,000.00 or quadruple the annual aggregate of city, county and school property taxes.
5. If a fee permitted by the provisions of this chapter is not paid by December 31 of the year in which it is levied, such fee shall be added to the real property city tax rolls chargeable to said property and shall be collected in the same manner as any unpaid real property city tax.

§ 107-4

(F)

(6)

- (b) Providing competent evidence that the building is listed for sale by a licensed realtor and is being advertised for sale at least once a month in a local newspaper or other journal. Should the property remain unsold six months after the initial listing, the responsible party shall provide the Code Enforcement Offices with a current market analysis that provides evidence that the property's listed sales price is reasonable. Thereafter the responsible party shall furnish the Code Enforcement Office additional market analysis each six months thereafter that the property remains unsold. The responsible party shall adjust the listed sales price to reflect each market analysis.

§ 107-4

- W. The responsible party shall comply with, and the property shall be subject to all provisions of chapter 220.

**New York State Energy Research and Development Authority
("NYSERDA")**

AGREEMENT

1. Agreement Number: 39503
2. Contractor: City of Cortland
3. Project Director: Brian Tobin
4. Effective Date: August 11, 2014
5. Total Amount of Award: \$112,000
6. Project Period: August 11, 2014 - June 30, 2017
7. Commitment Terms and Conditions

This Agreement consists of this form plus the following documents:

- Exhibit A, Statement of Work;
- Exhibit B, General Contract Provisions, Terms and Conditions;
- Exhibit C, Standard Terms and Conditions;
- Exhibit D, Prompt Payment Policy Statement;
- Exhibit E, NYSERDA Report Content Guide 2014; and
- Exhibit F, Performance Metrics.

8. ACCEPTANCE. THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNLESS EXECUTED BELOW BY NYSERDA.

CITY OF CORTLAND

**NEW YORK STATE ENERGY
RESEARCH AND DEVELOPMENT
AUTHORITY**

By _____

By _____

Name _____

Jeffrey J. Pitkin
Treasurer

Title _____

STATE OF)
) SS.:
COUNTY OF)

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

Notary Public

Exhibit A – Statement of Work
Cleaner, Greener Communities (CGC) Program, Phase II: Category 2
Cortland Zoning
CFA # 29757/Contract # 39503

Project Background

This project will focus on zoning updates for the City of Cortland, (hereafter, the “Contractor” or the “City”) the sole city in Cortland County, New York. It is located within the Central New York Region with respect to its Regional Economic Development Council. “Smart growth” techniques, which are essential to encourage development and protect the environment, will be encouraged in Cortland through carefully crafted and judiciously enforced zoning regulations. This project shall consist of a thorough analysis of the City’s current zoning code, paying particular attention to land use, density, and bulk regulations, and amending as appropriate, to encourage future mixed use development, housing variety, greater development densities, and infill development. LEED® for Neighborhood Development (LEED – ND) principles shall be used to supplement and amend the current code where needed. To promote streamlined local decision making, avoid inappropriate development, and reduce conflicting interpretations, the City’s site plan review regulations shall be updated. Issues concerning unit density, buffers, and signs shall be addressed. Zoning efforts shall also focus on waterfront revitalization along the Tioughnioga River. The City shall ultimately have zoning regulations that protect residential areas, create desired transitions and buffers, and encourage appropriate economic and waterfront development while protecting sensitive environmental assets. The final deliverable shall be an easy to understand, environmentally friendly, comprehensive zoning and land use document.

Definitions

Contractor Team: The Contractor Team for this Agreement shall consist of the Contractor, and any Subcontractors to be identified and selected in accordance with Article V of this Agreement.

Regional Outreach Coordinator (“ROC”): NYSERDA, through its Cleaner Greener Communities Implementation Contractor, Ecology and Environment Engineering, P.C. (EEEPC), shall assign a ROC, a permanent EEEPC staff member who is in at least a Junior position or above, to serve as the main point of contact for the Contractor.

NYSERDA Project Manager: NYSERDA shall assign a staff member as the NYSERDA Project Manager, designated to oversee the Contractor. The NYSERDA Project Manager shall work with the ROC to review deliverables and provide direction to the Contractor in a streamlined fashion. The NYSERDA Project Manager shall be responsible for approving deliverables and ensuring compliance with this Statement of Work.

Cost share: In kind or financial contributions by the Contractor excluding grants or incentives from NYSERDA and other New York State agencies.

Performance Metrics: The standards of comparison, determined and documented as outlined in Exhibit F, NYSERDA shall use to: assess activities in the project, capture the extent of benefits delivered, and gauge performance of the project and of the CGC Program.

Deliverable Review Process

The Contractor shall submit all Deliverables outlined in this Agreement to the ROC once a Task is completed. The Contractor shall submit all Deliverables in Microsoft Word and PDF format (or other format as identified in the Tasks below). Within ten (10) business days of receipt of each Deliverable, the ROC shall provide comments to the Contractor, who shall address the comments and resubmit the Deliverable to the ROC within fifteen (15) business days, or, if the Deliverable is acceptable, the ROC shall submit it to the NYSERDA Project Manager for review and final approval. The NYSERDA Project Manager shall notify the Contractor within thirty (30) business days after receipt of the Deliverable from the ROC if revisions are required (with comments noted) or if the Deliverable is approved. The Contractor shall prepare revisions to the Deliverable reflecting the NYSERDA Project Manager's comments, and resubmit the revised Deliverable in Microsoft Word and PDF format (or other format as identified below), within fifteen (15) business days after receipt of these comments.

The NYSERDA Project Manager may provide additional comments and requests for information following receipt of the Contractor's revisions. In the event that NYSERDA requires additional time for considering approval, NYSERDA shall specify the additional amount of review time necessary up to thirty (30) working days. All Deliverables shall not be considered final unless approved by NYSERDA in writing to the Contractor.

Tasks

The total NYSERDA award amount for all tasks shall not exceed \$112,000. The Contractor shall be required to provide a cost share of \$38,000. The total project cost is \$150,000. Any modifications to this amount shall be by mutual agreement. However, the Contractor's minimum cost share cannot be less than 25% of the total project cost. All cost overruns shall be the sole responsibility of the Contractor.

Regardless of any subcontracting arrangements, the Contractor is solely responsible for all tasks in this Statement of Work. The Contractor shall conduct all work as outlined in the following tasks:

Task 1: Contract Management

The Contractor shall be responsible for overall Contract management and coordination of all Tasks in this Agreement. Contract management activities shall include, but not be limited to, the following tasks:

1.1 Project Execution Plan

To ensure the successful development of the approved deliverables, the Contractor shall submit a Project Execution Plan ("PEP"), limited to no more than 5 pages and in a template provided by NYSERDA.

The PEP shall include:

- Partner Organizations or Municipalities– A list of all partner organizations, including both a primary and secondary contact person for each organization, with a breakdown of any financial or staff assistance that each organization or municipality has committed to provide in support of the project;
- Contractor Team Members - An organizational chart of the Contractor Team and list of contributing partner organizations by deliverable;
- Subcontractors- A list of all entities that will contribute, either directly or indirectly, to completion of the Project, with a description of their scope of work, deliverables with which they will be involved,

and a budget for each member of the Contractor Team performing work specifically outlined in this Agreement;

- Work Plan– A Work Plan, with approximate dates to more narrowly define timelines for the Payment Schedule below, when key deliverables are expected to be submitted for NYSERDA approval. The Work Plan shall also set forth how the deliverables relate to one another. Lastly, the Work Plan shall provide a summary of how approvals will be attained by the Contractor’s internal team for key deliverables and list the point people for each stage of approval; and
- Performance Metrics – Include a draft Project Benefits Metrics Report (PBMR) with proposed performance metrics and projected benefit values, including methods for data collection and calculations as described in Exhibit F. Prior to the end of Q3 2014, NYSERDA shall facilitate a workshop both in person and via webinar to review NYSERDA’s draft metric strategy for all of the Program Opportunity Notice (PON) 2721– Comprehensive Planning awarded activities (comprehensive planning, zoning, etc.). NYSERDA shall invite the Contractor to participate in this workshop to assist in developing metrics for this specific Project as well as share ideas and expertise on metrics for other planning related activities. The Contractor shall be required to attend this workshop as it will help in the development of the PBMR required under this Agreement.

1.2 Contract Management and Quarterly Progress Reports: The Contractor shall participate in conference calls and meetings as outlined below; prepare and submit quarterly reports as outlined below; coordinate and manage all Subcontractors; provide documentation and information as requested by NYSERDA for creation of press releases or case studies to showcase the success of the Tasks completed in this Agreement; and review all Deliverables prior to submission to the ROC and NYSERDA Project Manager. The Contractor shall submit quarterly progress reports within 30 days after the end of each quarter, in a template provided by NYSERDA. During each calendar year, quarter start and end dates are as follows: Quarter 1: January 1-March 31, Quarter 2: April 1-June 30, Q3: July 1-September 30, Quarter 4: October 1-December 31.

Conference Calls and Meetings: The Contractor shall participate with NYSERDA in monthly calls and face-to-face meetings as needed to gauge project status. NYSERDA, working in conjunction with the ROC, shall schedule and conduct on an as-needed basis in-person visits, conference calls, or face-to-face meetings to verify project requirements and the completion of project milestones.

Each quarterly report shall provide:

- A summary of progress and accomplishments over the previous quarter, including a discussion of major tasks and deliverables completed in the prior quarter;
- Explanation of Contract management activities completed in the previous quarter with backup documentation including timesheets showing hours worked, hourly rate, staff person, and title;
- Explanation of current quarter’s activities and plans, including tasks and deliverables to be completed; and
- Discussion of any major issues or problems encountered during the prior quarter, deviations from schedule and budget and other issues related to the successful outcome of this Agreement.

If the project timeline is extended past the end of the Project Period as specified in the Milestone Payment Schedule, the Contractor shall continue to submit quarterly reports but no additional payments shall be allocated for those deliverables.

1.3 Final Report and Technology Transfer

The Contractor, in conjunction with the rest of the Contractor Team, shall prepare a comprehensive Final Report, in a template provided by NYSERDA and limited to no more than 15 pages plus attached final products, which describes the Work performed and the results associated with the tasks outlined in this Agreement.

To further NYSERDA's goal of transferring technology or knowledge amongst all NYS communities, the Contractor shall make all final project deliverables available for public use and agree to work with NYSERDA to promote the project throughout its implementation through NYSERDA's outreach outlets. The Contractor shall also honor any reasonable request made by NYSERDA to provide any additional information necessary to create a press release or case study showcasing this project.

Minimum Report Content:

- Table of Contents;
- Brief overview of CGC Program;
- Project overview and description;
- Summary of tasks completed;
- Narrative describing activities that took place;
- Table outlining tasks that received NYSERDA funding, total cost of tasks as implemented, and NYSERDA funding amounts;
- Appendices including:
 - Documentation outlined in Tasks 2 through 5 of this Statement of Work;
 - Names, contact information and roles for project participants; and
 - Performance Metrics – Include final PBMR as described in Exhibit F.

NYSERDA reserves the right to request additional analysis, clarification on certain tasks, or other content for inclusion in the Draft or Final Reports.

Deliverables:

- 1.1 PEP including the draft PBMR;
- 1.2A Contract Management and Quarterly Progress Report #1;
- 1.2B Contract Management and Quarterly Progress Report #2;
- 1.2C Contract Management and Quarterly Progress Report #3;
- 1.2D Contract Management and Quarterly Progress Report #4;
- 1.2E Contract Management and Quarterly Progress Report #5;
- 1.2F Contract Management and Quarterly Progress Report #6;
- 1.2G Contract Management and Quarterly Progress Report #7;
- 1.2H Contract Management and Quarterly Progress Report #8;
- 1.2I Contract Management and Quarterly Progress Report #9;
- 1.2J Contract Management and Quarterly Progress Report #10;
- 1.2K Contract Management and Quarterly Progress Report #11; and
- 1.3 Final Report including the Final PBMR.

Task 2: Review of Existing Planning Documents, Regulations, and Kick-off Meeting

The Contractor, in conjunction with the rest of the Contractor Team, shall perform the following activities:

- 2.1 Conduct a review and evaluation of the Contractor’s existing Comprehensive Plan, (hereafter, the “Plan”) and land use regulations to identify strengths and barriers related to “smart growth.” Consider other Central New York regional planning documents in this evaluation.
- 2.2 Form a review committee of local government officials, board members, and other stakeholders to help guide the zoning update process.
- 2.3 Hold a kick-off meeting with the project team and review committee, including an overview of the project process.
- 2.4 Develop an official timeline for the completion of each task.

Deliverables:

- 2.1 One Microsoft Word and PDF copy of the report summarizing the Subcontractor’s evaluation of the Plan and land use regulations;
- 2.2 List of confirmed review committee members;
- 2.3 Meeting minutes and attendance from kick-off meeting; and
- 2.4 One Microsoft Word and PDF copy of the official timeline.

Task 3: Zoning and Related Review

The Contractor, in conjunction with the rest of the Contractor Team, shall perform the following activities:

- 3.1 Analyze and compare existing land use patterns and occupancy trends with the provisions of existing land use and occupancy regulations, including zoning ordinances, local laws, building codes, subdivisions and site plan review regulations. Analyze the City’s zoning ordinance, land use policy, neighborhood demographics, vehicle and intermodal traffic patterns, data and survey results compiled by the SUNY Cortland “Live in Cortland” commission, to identify geographic areas in Cortland where the existing zoning ordinance should be modified to promote redevelopment opportunities and support community housing initiatives.
- 3.2 Make specific recommendations to amend the City’s zoning and site plan regulations that are in accordance with smart growth and LEED-ND criteria. Include best practices such as compact growth; infill development; transit-oriented and mixed use development; pedestrian- and bicycle-friendly practices; complete streets; and protection of critical environmental areas, waters and natural resources. Examine sustainable development practices that strive to enhance environmental, economic, and social well-being without degrading current or future natural, economic, and social resources.

Deliverables:

- 3.1 One Microsoft Word and PDF copy of the report identifying geographic areas to implement zoning changes; and
- 3.2 One Microsoft Word and PDF copy of recommendations for amendments to the zoning and site plan regulations.

Task 4: Draft Rewrites

The Contractor, in conjunction with the rest of the Contractor Team, shall perform the following activities:

- 4.1 Host regular meetings with the Contractor Team and review committee (established in Task 2.2) to review and provide input on the findings and recommendations identified in Tasks 2 and 3 and continue to provide input throughout Task 4.
- 4.2 Develop a first draft of zoning regulations, site plan regulations, and management tools to implement the regulations. Incorporate progressive policies derived from smart growth and LEED-ND criteria and address any existing limitations in the city's zoning law related to smart growth. Reference the U.S. Green Building Council's (USGBC) 2013 *Technical Guidance Manual for Sustainable Neighborhoods* for this task.

Deliverables:

- 4.1 Meeting minutes and attendance from Contractor Team and review committee meetings; and
- 4.2 One Microsoft Word and PDF copy of the draft zoning and site plan regulations.

Task 5: Final Regulations and State Environmental Quality Review Act (SEQRA)

The Contractor, in conjunction with the rest of the Contractor Team, shall perform the following activities:

- 5.1 Conduct a review committee meeting to discuss and comment on draft sections of the updated zoning law.
- 5.2 Request a legal review of the draft regulation by the City's legal counsel.
- 5.3 Make draft regulations available to the public at the local library and City Hall. Submit documentation, in the form of a letter or email from an official representative of the local library and City Hall, demonstrating that draft regulations were made available to the public at the local library and City Hall
- 5.4 Hold a public hearing to solicit community input on the draft regulations.
- 5.5 As part of the SEQRA process, complete the Long Environmental Assessment concurrently with the development of the draft zoning ordinance. Comply with matters related to the provisions of Section 239-m of the General Municipal Law as well as with SEQRA requirements.
- 5.6 Document and obtain approval for proposed changes to draft zoning and site plan review regulations based on feedback from the review committee, city attorney, public, and NYSERDA, and incorporate the approved changes into final zoning regulations.
- 5.7 Prepare a resolution adopting the new zoning and site plan regulations. Submit the resolution for consideration by the City's Common Council and upon adoption of the resolution forward final zoning regulations to General Code Publishers to update the City codebook.

Deliverables:

- 5.1 Meeting minutes and attendance of committee meeting;
- 5.2 Summary of findings by city attorney;
- 5.3 Documentation demonstrating that draft regulations were made available to the public at the local library and City Hall;

- 5.4 Meeting minutes, attendance, and detailed documentation of community input received at public hearing;
- 5.5 Completed Environmental Assessment form;
- 5.6 One Microsoft Word and PDF copy of the final zoning and site plan regulations; and
- 5.7 Resolution from the Contractor adopting the new zoning and site plan regulations.

Payment Schedule

The Project milestones and schedule of payments is shown below. The budget table below represents the budgets as estimated at the start of the Project Period as defined in Item 4 on page 1 of this Agreement. The Contractor, as part of a quarterly reporting package, may request a change to the NYSERDA share of the budget per task. If a budget task reallocation request is made, the Contractor must ensure that the NYSERDA share as a percent of total project cost remains the same or decreases. The NYSERDA Project Manager is authorized to transfer up to 10% of the total NYSERDA share between tasks without requiring a contract modification. The NYSERDA Project Manager must provide a written approval or rejection of the request. Changes to the total NYSERDA share of cumulative budget changes that exceed 10% of the total NYSERDA share, and any changes of the total NYSERDA share of the budget, shall require a contract modification.

The Contractor shall submit invoices for payment of a completed milestone once the associated Deliverables are approved by the NYSERDA Project Manager as outlined in the Deliverable Review Process above. Invoices shall be submitted in a template provided by NYSERDA and as outlined in Article IV of the Agreement. NYSERDA funding, when combined with the Contractor’s cost-share, shall not exceed 100% of the cost of any milestone. NYSERDA is not responsible for any costs that are greater than the NYSERDA contribution not-to-exceed amount for each milestone.

The Contractor shall outline all cost-share amounts in invoices submitted to NYSERDA and shall provide the following documentation to support the NYSERDA contribution and cost share amount for each invoice:

The following documentation shall be submitted to provide proof the cost share was met:

- Capital Costs: Invoice supporting total capital costs (including permitting and other fees) incurred.
- Labor costs (in-kind or subcontracted): Breakout of the staff that worked on this milestone and the number of hours, multiplied times the hourly rate to get the total amount.
- Document Cash Contributions from non-NYS Source: with a signed letter of commitment from the contributing entity (*i.e.* Federal grant award). On the milestone payment requests, the Contractor shall note the amount of money provided by the private source that is being contributed to that task.

Milestone #	Deliverable Description	Due Date	NYSERDA Contribution Not To Exceed	Contractor Cost Share	Total Cost
1	Contract Management				
1.1	PEP with Draft PBMR	Q3 2014	\$5,625.00	\$1,875.00	\$7,500.00
1.2A	Contract Management and Quarterly Progress Report #1	Q3 2014	\$468.75	\$156.25	\$625.00
1.2B	Contract Management and Quarterly Progress Report #2	Q4 2014	\$468.75	\$156.25	\$625.00

Milestone #	Deliverable Description	Due Date	NYSERDA Contribution Not To Exceed	Contractor Cost Share	Total Cost
1.2C	Contract Management and Quarterly Progress Report #3	Q1 2015	\$468.75	\$156.25	\$625.00
1.2D	Contract Management and Quarterly Progress Report #4	Q2 2015	\$468.75	\$156.25	\$625.00
1.2E	Contract Management and Quarterly Progress Report #5	Q3 2015	\$468.75	\$156.25	\$625.00
1.2F	Contract Management and Quarterly Progress Report #6	Q4 2015	\$468.75	\$156.25	\$625.00
1.2G	Contract Management and Quarterly Progress Report #7	Q1 2016	\$468.75	\$156.25	\$625.00
1.2H	Contract Management and Quarterly Progress Report #8	Q2 2016	\$468.75	\$156.25	\$625.00
1.2I	Contract Management and Quarterly Progress Report #9	Q3 2016	\$468.75	\$156.25	\$625.00
1.2J	Contract Management and Quarterly Progress Report #10	Q4 2016	\$468.75	\$156.25	\$625.00
1.2K	Contract Management and Quarterly Progress Report #11	Q1 2017	\$468.75	\$156.25	\$625.00
1.3	Final Report with Final PBMR	Q2 2017	\$468.75	\$156.25	\$625.00
	Total Task 1		\$11,250.00	\$3,750.00	\$15,000.00
2	Review of Existing Planning Documents, Regulations				
2.1	Report evaluating the comprehensive plan and land use regulations	Q1 2015	\$12,750.00	\$4,250.00	\$17,000.00
2.2	List of confirmed review committee members	Q1 2015	\$375.00	\$125.00	\$500.00
2.3	Meeting minutes and attendance from kick-off meeting	Q1 2015	\$1,125.00	\$375.00	\$1,500.00
2.4	Official timeline	Q1 2015	\$750.00	\$250.00	\$1,000.00
	Total Task 2		\$15,000.00	\$5,000.00	\$20,000.00
3	Zoning and Related Review				
3.1	One Microsoft Word and PDF copy of the report identifying geographic areas to implement zoning changes	Q1 2015	\$10,450.00	\$3,550.00	\$14,000.00
3.2	One Microsoft Word and PDF copy of recommendations for amendments to the zoning and site plan regulations.	Q1 2015	\$10,450.00	\$3,550.00	\$14,000.00
	Total Task 3		\$20,900.00	\$7,100.00	\$28,000.00

Milestone #	Deliverable Description	Due Date	NYSERDA Contribution Not To Exceed	Contractor Cost Share	Total Cost
4	Draft Rewrites				
4.1	Meeting minutes and attendance from Contractor Team and review committee meetings	Q1 2016	\$1,500.00	\$500.00	\$2,000.00
4.2	One Microsoft Word and PDF copy of the draft zoning and site plan regulations.	Q1 2016	\$28,500.00	\$9,500.00	\$38,000.00
	Total Task 4		\$30,000.00	\$10,000.00	\$40,000.00
5	Draft and Final Regulations and SEQRA				
5.1	Meeting minutes and attendance of committee meeting	Q1 2017	\$1,500.00	\$500.00	\$2,000.00
5.2	Summary of findings by the City Attorney	Q1 2017	\$3,750.00	\$1,250.00	\$5,000.00
5.3	Documentation demonstrating that draft regulations were made available to the public at the local library and City Hall.	Q1 2017	\$750.00	\$250.00	\$1,000.00
5.4	Meeting minutes, attendance, and detailed documentation of community input received at public hearing;	Q1 2017	\$750.00	\$250.00	\$1,000.00
5.5	Completed Environmental Assessment form	Q1 2017	\$3,350.00	\$1,650.00	\$5,000.00
5.6	Final zoning regulations	Q1 2017	\$13,500.00	\$4,500.00	\$18,000.00
5.7	Resolution adopting zoning and site plan regulations	Q1 2017	\$11,250.00	\$3,750.00	\$15,000.00
	Total Task 5		\$34,850.00	\$12,150.00	\$47,000.00
	Total Project		\$112,000.00	\$38,000.00	\$150,000.00

EXHIBIT B

GENERAL CONTRACT PROVISIONS, TERMS AND CONDITIONS

Article I

Definitions

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined below shall have, for all purposes of this Agreement, the respective meanings set forth below, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined.

(a) General Definitions:

Agreement: This Agreement shall consist of Page One and Exhibits noted therein, all of which are made a part hereof as if set forth here in full.

Budget: The Budget set forth at Exhibit A hereto.

Cash-based Expenses: Those obligations of Contractor that shall be settled in cash.

Contract Administrator: NYSERDA's Director of Contract Management, Cheryl L. Earley, or such other person who may be designated, in writing, by NYSERDA.

Contract Information: Recorded information regardless of form or characteristic first produced in the performance of this Agreement, that is specified to be compiled under this Agreement, specified to be delivered under this Agreement, or that is actually delivered in connection with this Agreement, and including the Final Report delivered by Contractor pursuant to Exhibit A, Statement of Work, if applicable.

Person: An individual, a corporation, an association or partnership, an organization, a business or a government or political subdivision thereof, or any governmental agency or instrumentality.

Proprietary Information: Recorded information regardless of form or characteristic, produced or developed outside the scope of this Agreement and without NYSERDA financial support, provided that such information is not generally known or available from other sources without obligation concerning their confidentiality; has not been made available by the owner to others without obligation concerning its confidentiality; and is not already available to NYSERDA without obligation concerning its confidentiality. Under no circumstances shall any information included in the Final Report delivered by Contractor pursuant to Exhibit A, Statement of Work, if applicable, be considered Proprietary Information.

Responsible: Responsible or Responsibility means the financial ability, legal capacity, integrity and past performance of Contractor and as such terms have been interpreted relative to public procurements. See NYS Finance Law § 163(1)(c).

Statement of Work: The Statement of Work attached hereto as Exhibit A.

Subcontract: An agreement for the performance of Work by a Subcontractor, including any purchase order for the procurement of permanent equipment or expendable supplies in connection with the Work.

Subcontractor: A person who performs Work directly or indirectly for or on behalf of the Contractor (and whether or not in privity of contract with the Contractor) but not including any employees of the Contractor or the Subcontractors.

Work: The Work described in the Exhibit A (including the procurement of equipment and supplies in connection therewith) and the performance of all other requirements imposed upon the Contractor under this Agreement.

Article II

Performance of Work

Section 2.01. Manner of Performance. Subject to the provisions of Article XII hereof, the Contractor shall perform all of the Work described in the Statement of Work, or cause such Work to be performed in an efficient and expeditious manner and in accordance with all of the terms and provisions of this Agreement. The Contractor shall perform the Work in accordance with the current professional standards and with the diligence and skill expected for the performance of work of the type described in the Statement of Work. The Contractor shall furnish such personnel and shall procure such materials, machinery, supplies, tools, equipment and other items as may reasonably be necessary or appropriate to perform the Work in accordance with this Agreement.

Section 2.02. Project Personnel. It is understood and agreed that the Project Director identified at Item 3, Page One of this Agreement shall be responsible for the overall supervision and conduct of the Work on behalf of the Contractor and that the persons described in the Statement of Work shall serve in the capacities described therein. Any change of Project Director by the Contractor shall be subject to the prior written approval of NYSERDA. Such approval shall not be unreasonably withheld, and, in the event that notice of approval or disapproval is not received by the Contractor within thirty (30) days after receipt of request for approval by NYSERDA, the requested change in Project Director shall be considered approved. In the event that NYSERDA requires additional time for considering approval, NYSERDA shall notify the Contractor within thirty (30) days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to thirty (30) days.

Section 2.03. Title to Equipment. Title shall vest in the Contractor to all equipment purchased hereunder.

Article III

Deliverables

Section 3.01. Deliverables. All deliverables shall be provided in accordance with the Exhibit A, Statement of Work.

Article IV

Payment

Section 4.01. Payment Terms.

It is understood and agreed that NYSERDA and the Contractor are sharing the costs for the Work to be performed.

In consideration for this Agreement and as NYSERDA's full payment for the costs of the performance of all Work, and in respect of all other direct and indirect costs, charges or expenses incurred in connection therewith, NYSERDA shall pay to the Contractor amounts not to exceed the maximum amount set forth in Item 5, Page One of this Agreement. Subject to the provisions and restrictions contained herein, including, without limitation, the Prompt Payment Policy Statement attached hereto as Exhibit D, payment will be made according to the Payment Schedule set forth in Exhibit A, Statement of Work.

Section 4.02. Payments

(a) Invoicing: Subject to any applicable provisions set forth in Exhibit A, Statement of Work, at the completion of each Milestone Event so identified, the Contractor may submit invoices, including documentation reasonably sufficient to demonstrate completion, requesting payment by NYSERDA of the amounts corresponding to the amounts indicated in Exhibit A, Statement of Work, including evidence of the Contractor's cost share, if applicable. Invoices shall be addressed to NYSERDA, "Attention: Accounts Payable," or submitted electronically to invoices@nyserda.ny.gov. Such invoices shall make reference to the Agreement number shown at Item 1 on page 1 of this Agreement. In accordance with and subject to the provisions of Exhibit D, NYSERDA shall pay to the Contractor, within the prescribed time after receipt of an invoice, the amount so requested, unless NYSERDA should determine that any such payment or any part thereof is otherwise not properly payable pursuant to the terms of the Agreement.

Section 4.03. Final Payment. Upon final acceptance by NYSERDA of all deliverables contained in Exhibit A, Statement of Work, pursuant to Section 6.02 hereof, the

Contractor shall submit an invoice for final payment with respect to the Work, together with such supporting information and documentation as, and in such form as, NYSERDA may require. All invoices for final payment hereunder must, under any and all circumstances, be received by NYSERDA within six (6) months following Acceptance of Work pursuant to Section 6.02 hereof. In accordance with and subject to the provisions of NYSERDA's Prompt Payment Policy Statement, attached hereto as Exhibit D, NYSERDA shall pay to the Contractor within the prescribed time after receipt of such invoice for final payment, the total amount payable pursuant to Section 4.01 hereof, less all progress payments/milestone payments previously made to the Contractor with respect thereto and subject to the maximum commitment set forth in Section 4.06 hereof.

Section 4.04. Release by the Contractor. The acceptance by the Contractor of final payment shall release NYSERDA from all claims and liability that the Contractor, its representatives and assigns might otherwise have relating to this Agreement.

Section 4.05. Maintenance of Records. The Contractor shall keep, maintain, and preserve at its principal office throughout the term of the Agreement and for a period of three years after acceptance of the Work, full and detailed books, accounts, and records pertaining to this Agreement, including without limitation, all data, bills, invoices, payrolls, time records, expense reports, subcontracting efforts and other documentation evidencing, or in any material way related to, Contractor's performance under this Agreement.

Section 4.06. Maximum Commitment. The maximum aggregate amount payable by NYSERDA to the Contractor shall be the amount appearing at Item 5 of page one of this Agreement. NYSERDA shall not be liable for any costs or expenses in excess of such amount incurred by the Contractor in the performance and completion of the Work.

Section 4.07. Audit. NYSERDA shall have the right from time to time and at all reasonable times during the term of this Agreement and for the maintenance period set forth in Section 4.05 hereof to inspect and audit any and all books, accounts and records related to this Agreement or reasonably necessary to the performance of an audit at the office or offices of the Contractor where they are then being kept, maintained and preserved pursuant to Section 4.05 hereof. Any payment made under the Agreement shall be subject to retroactive reduction for amounts included therein which are found by NYSERDA on the basis of any audit of the Contractor by NYSERDA, the State of New York or an agency of the United States not to constitute an allowable charge or cost hereunder.

Article V

Assignments, Subcontracts and Purchase Orders

Section 5.01. General Restrictions. Except as specifically provided otherwise in this Article, the assignment, transfer, conveyance, subcontracting or other disposal of this Agreement or any of the Contractor's rights, obligations, interests or responsibilities

hereunder, in whole or in part, without the express consent in writing of NYSERDA shall be void and of no effect as to NYSERDA.

Section 5.02. Subcontract Procedures. Without relieving it of, or in any way limiting, its obligations to NYSERDA under this Agreement, the Contractor may enter into Subcontracts for the performance of Work or for the purchase of materials or equipment. Except for a subcontractor or supplier specified in a team arrangement with the Contractor in the Contractor's original proposal, and except for any subcontract or order for equipment, supplies or materials from a single subcontractor or supplier totaling less than \$50,000, the Contractor shall select all subcontractors or suppliers through a process of competitive bidding or multi-source price review. A team arrangement is one where a subcontractor or supplier specified in the Contractor's proposal is performing a substantial portion of the Work and is making a substantial contribution to the management and/or design of the Project. In the event that a competitive bidding or multi-source price review is not feasible, the Contractor shall document an explanation for, and justification of, a sole source selection. The Contractor shall document the process by which a subcontractor or supplier is selected by making a record summarizing the nature and scope of the work, equipment, supplies or materials sought, the name of each person or organization submitting, or requested to submit, a bid or proposal, the price or fee bid, and the basis for selection of the subcontractor or supplier. An explanation for, and justification of, a sole source selection must identify why the work, equipment, supplies or materials involved are obtainable from or require a subcontractor with unique or exceptionally scarce qualifications or experience, specialized equipment, or facilities not readily available from other sources, or patents, copyrights, or proprietary data. All Subcontracts shall contain provisions comparable to those set forth in this Agreement applicable to a subcontractor or supplier, and those set forth in Exhibit C to the extent required by law, and all other provisions now or hereafter required by law to be contained therein. Each Subcontract shall make express reference to this Agreement, and shall state that in the event of any conflict or inconsistency between any Subcontract and this Agreement, the terms and conditions of this Agreement shall control as between Subcontractor and Contractor. If this Agreement includes a provision requiring Contractor to make Payments to NYSERDA for the Sale or Licensing of a Product, each Subcontract shall include the provisions of Section 8.02, suitably modified to identify the parties. The Contractor shall submit to NYSERDA's Contract Administrator for review and written approval any subcontract(s) specified in the Statement of Work as requiring NYSERDA approval, including any replacements thereof.

Section 5.03. Performance. The Contractor shall promptly and diligently comply with its obligations under each Subcontract and shall take no action that would impair its rights thereunder. The Contractor shall take no action, and shall take all reasonable steps to prevent its Subcontractors from taking any action, that would impair NYSERDA's rights under this Agreement. The Contractor shall not assign, cancel or terminate any Subcontract without the prior written approval of NYSERDA's Contract Administrator as long as this Agreement remains in effect. Such approval shall not be unreasonably withheld and, in the event that notice of approval or disapproval is not received by the Contractor within thirty days after receipt of request for approval by NYSERDA, the

requested assignment, cancellation, or termination of the Subcontract shall be considered approved by NYSERDA. In the event that NYSERDA requires additional time for considering approval, NYSERDA shall notify the Contractor within thirty (30) days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to sixty (60) days.

Article VI

Schedule; Acceptance of Work

Section 6.01. Schedule. The Work shall be performed as expeditiously as possible in conformity with the schedule requirements contained herein and in the Statement of Work. The draft and final versions of all deliverables shall be submitted by the dates specified in the Exhibit A Schedule. It is understood and agreed that the delivery of the draft and final versions of such deliverables by the Contractor shall occur in a timely manner and in accordance with the requirements of the Exhibit A Schedule.

Section 6.02. Acceptance of Work. The completion of the Work shall be subject to acceptance by NYSERDA in writing of all deliverables as defined in Exhibit A, Statement of Work.

Article VII

Force Majeure

Section 7.01. Force Majeure. Neither party hereto shall be liable for any failure or delay in the performance of its respective obligations hereunder if and to the extent that such delay or failure is due to a cause or circumstance beyond the reasonable control of such party, including, without limitation, acts of God or the public enemy, expropriation or confiscation of land or facilities, compliance with any law, order or request of any Federal, State, municipal or local governmental authority, acts of war, rebellion or sabotage or damage resulting therefrom, fires, floods, storms, explosions, accidents, riots, strikes, or the delay or failure to perform by any Subcontractor by reason of any cause or circumstance beyond the reasonable control of such Subcontractor.

Article VIII

Rights in Information; Confidentiality

Section 8.01. Rights in Contract and Proprietary Information.

(a) All Contract Information shall be the property of NYSERDA. The Contractor shall not use Contract Information for any purpose other than to implement its obligations under this Agreement.

(b) All Proprietary Information shall be the property of Contractor.

(c) The use, public performance, reproduction, distribution, or modification of any materials used by Contractor in the performance of this Agreement does not and will not violate the rights of any third parties, including, but not limited to, copyrights, trademarks, service marks, publicity, or privacy. The Contractor shall be responsible for obtaining and paying for any necessary licenses to use any third-party content.

(d) The Contractor agrees that to the extent it receives or is given any information from NYSERDA or a NYSERDA contractor or subcontractor, the Contractor shall treat such data in accordance with any restrictive legend contained thereon or instructions given by NYSERDA, unless another use is specifically authorized by prior written approval of the NYSERDA Project Manager. Contractor acknowledges that in the performance of the Work under this Agreement, Contractor may come into possession of personal information as that term is defined in Section 92 of the New York State Public Officers Law. Contractor agrees not to disclose any such information without the consent of NYSERDA.

Article IX

Warranties and Guarantees

Section 9.01. Warranties and Guarantees. The Contractor warrants and guarantees that:

(a) all information provided and all representations made by Contractor as a part of the Proposal Checklist or application, if any, submitted to NYSERDA in order to obtain this Agreement were, to the best of Contractor's knowledge, complete, true and accurate when provided or made;

(b) as of the Effective Date, it is financially and technically qualified to perform the Work, and is qualified to do business and is in good standing in all jurisdictions necessary for Contractor to perform its obligations under this Agreement;

(c) it is familiar with and will comply with all general and special Federal, State, municipal and local laws, ordinances and regulations, if any, that may in any way affect the performance of this Agreement;

(d) the design, supervision and workmanship furnished with respect to performance of the Work shall be in accordance with sound and currently accepted scientific standards and engineering practices;

(e) all materials, equipment and workmanship furnished by it and by Subcontractors in performance of the Work or any portion thereof shall be free of defects in design, material and workmanship, and all such materials and equipment shall be of first-class quality, shall conform with all applicable codes, specifications, standards and ordinances and shall have service lives and maintenance characteristics suitable for their intended purposes in accordance with sound and currently accepted scientific standards and engineering practices;

(f) neither the Contractor nor any of its employees, agents, representatives or servants has actual knowledge of any patent issued under the laws of the United States or any other matter which could constitute a basis for any claim that the performance of the Work or any part thereof infringes any patent or otherwise interferes with any other right of any Person;

(g) to the best of Contractor's knowledge, there are no existing undisclosed or threatened legal actions, claims, or encumbrances, or liabilities that may adversely affect the Work or NYSERDA's rights hereunder;

(h) it has no actual knowledge that any information or document or statement furnished by the Contractor in connection with this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statement not misleading, and that all facts have been disclosed that would materially adversely affect the Work;

(i) all information provided to NYSERDA with respect to State Finance Law Sections 139-j and 139-k is complete, true and accurate;

(j) Contractor is familiar with and will comply with NYSERDA's Code of Conduct for Contractors, Consultants, and Vendors with respect to the performance of this Agreement;¹ and

(k) its rates for the indirect costs charged herein have been determined based on the Contractor's reasonably anticipated indirect costs during the term of the Agreement and calculated consistent with generally accepted accounting principles.

(l) Contractor shall at all times during the Agreement term remain Responsible, and Contractor agrees, if requested by NYSERDA, 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.

Article X

Indemnification

¹http://www.nyserda.ny.gov/~media/Files/About/Board%20Governance/CodeConduct.ashx?sc_database=web

Section 10.01. Indemnification. The Contractor shall protect, indemnify and hold harmless NYSERDA and the State of New York from and against all liabilities, losses, claims, damages, judgments, penalties, causes of action, costs and expenses (including, without limitation, attorneys' fees and expenses) imposed upon or incurred by or asserted against NYSERDA or the State of New York resulting from, arising out of or relating to Contractor's or its Subcontractors' performance of this Agreement. The obligations of the Contractor under this Article shall survive any expiration or termination of this Agreement, and shall not be limited by any enumeration herein of required insurance coverage.

Article XI

Insurance

Section 11.01. Maintenance of Insurance; Policy Provisions. The Contractor, at no additional direct cost to NYSERDA, shall maintain or cause to be maintained throughout the term of this Agreement, insurance of the types and in the amounts specified in the Section hereof entitled Types of Insurance. All such insurance shall be evidenced by insurance policies, each of which shall:

- (a) except policies in evidence of insurance required under Section 11.02(b), name or be endorsed to cover NYSERDA, the State of New York and the Contractor as additional insureds;
- (b) provide that such policy may not be cancelled or modified until at least 30 days after receipt by NYSERDA of written notice thereof; and
- (c) be reasonably satisfactory to NYSERDA in all other respects.

Section 11.02. Types of Insurance. The types and amounts of insurance required to be maintained under this Article are as follows:

(a) Commercial general liability insurance for bodily injury liability, including death, and property damage liability, incurred in connection with the performance of this Agreement, with minimum limits of \$1,000,000 in respect of claims arising out of personal injury or sickness or death of any one person, \$1,000,000 in respect of claims arising out of personal injury, sickness or death in any one accident or disaster, and \$1,000,000 in respect of claims arising out of property damage in any one accident or disaster; and

(b) Workers Compensation, Employers Liability, and Disability Benefits as required by New York State.

Section 11.03. Delivery of Policies; Insurance Certificates. Prior to commencing the Work, the Contractor shall deliver to NYSERDA certificates of insurance issued by the respective insurers, indicating the Agreement number thereon, evidencing the insurance

required by Article XI hereof. In the event any policy furnished or carried pursuant to this Article will expire on a date prior to acceptance of the Work by NYSERDA pursuant to the section hereof entitled Acceptance of Work, the Contractor, not less than 15 days prior to such expiration date, shall deliver to NYSERDA certificates of insurance evidencing the renewal of such policies, and the Contractor shall promptly pay all premiums thereon due. In the event of threatened legal action, claims, encumbrances, or liabilities that may affect NYSERDA hereunder, or if deemed necessary by NYSERDA due to events rendering a review necessary, upon request the Contractor shall deliver to NYSERDA a certified copy of each policy.

Article XII

Stop Work Order; Termination; Non-Responsibility

Section 12.01. Stop Work Order.

(a) NYSERDA may at any time, by written Order to the Contractor, require the Contractor to stop all or any part of the Work called for by this Agreement for a period of up to ninety (90) days after the Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. Any such order shall be specifically identified as a Stop Work Order issued pursuant to this Section. Upon receipt of such an Order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Order during the period of work stoppage consistent with public health and safety. Within a period of ninety (90) days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, NYSERDA shall either:

- (i) by written notice to the Contractor, cancel the Stop Work Order, which shall be effective as provided in such cancellation notice, or if not specified therein, upon receipt by the Contractor, or
- (ii) terminate the Work covered by such order as provided in the Termination Section of this Agreement.

(b) If a Stop Work Order issued under this Section is cancelled or the period of the Order or any extension thereof expires, the Contractor shall resume Work. An equitable adjustment shall be made in the delivery schedule, the estimated cost, the fee, if any, or a combination thereof, and in any other provisions of the Agreement that may be affected, and the Agreement shall be modified in writing accordingly, if:

- (i) the Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Agreement, and

(ii) the Contractor asserts a claim for such adjustments within 30 days after the end of the period of Work stoppage; provided that, if NYSERDA decides the facts justify such action, NYSERDA may receive and act upon any such claim asserted at any time prior to final payment under this Agreement.

(c) If a Stop Work Order is not cancelled and the Work covered by such Order is terminated, the reasonable costs resulting from the Stop Work Order shall be allowed by equitable adjustment or otherwise.

(d) Notwithstanding the provisions of this Section 12.01, the maximum amount payable by NYSERDA to the Contractor pursuant to this Section 12.01 shall not be increased or deemed to be increased except by specific written amendment hereto.

Section 12.02. Termination.

(a) This Agreement may be terminated by NYSERDA at any time during the term of this Agreement with or without cause, upon ten (10) days prior written notice to the Contractor. In such event, payment shall be paid to the Contractor for Work performed and expenses incurred prior to the effective date of termination in accordance with the provisions of the Article hereof entitled Payment and in reimbursement of any amounts required to be paid by the Contractor pursuant to Subcontracts; provided, however, that upon receipt of any such notice of termination, the Contractor shall cease the performance of Work, shall make no further commitments with respect thereto and shall reduce insofar as possible the amount of outstanding commitments (including, to the extent requested by NYSERDA, through termination of subcontracts containing provisions therefore). Articles VIII, IX, and X shall survive any termination of this Agreement, and Article XVI shall survive until the payment obligations pursuant to Article VIII have been met.

(b) NYSERDA specifically reserves the right to terminate this agreement in the event that the certification filed by the Contractor in accordance with State Finance Law Sections 139-j and 139-k is found to have been intentionally false or intentionally incomplete, or that the certification filed by the Contractor in accordance with New York State Tax Law Section 5-a is found to have been intentionally false when made. Terminations under this subsection (b) will be effective upon Notice.

(c) Nothing in this Article shall preclude the Contractor from continuing to carry out the Work called for by the Agreement after receipt of a Stop Work Order or termination notice at its own election, provided that, if the Contractor so elects: (i) any such continuing Work after receipt of the Stop Work Order or termination notice shall be deemed not to be Work pursuant to the Agreement, and (ii) NYSERDA shall have no liability to the Contractor for any costs of the Work continuing after receipt of the Stop Work Order or termination notice.

Section 12.03 Suspension or Termination for Non-Responsibility.

(a) Suspension. NYSERDA, in its sole discretion, reserves the right to suspend any or all activities under this Agreement, at any time, when it discovers information that calls into question the Responsibility of the Contractor. In the event of such suspension, the Contractor will 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 NYSERDA issues a written notice authorizing a resumption of performance under the Contract.

(b) Termination. Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate NYSERDA officials or staff, this Agreement may be terminated by NYSERDA at the Contractor's expense where the Contractor is determined by NYSERDA to be non-Responsible. In such event, NYSERDA may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.

Article XIII

Independent Contractor

Section 13.01. Independent Contractor. (a) The status of the Contractor under this Agreement shall be that of an independent contractor and not that of an agent, and in accordance with such status, the Contractor, the Subcontractors, and their respective officers, agents, employees, representatives and servants, including the Project Director, shall at all times during the term of this Agreement conduct themselves in a manner consistent with such status and by reason of this Agreement shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, representatives or servants of NYSERDA nor make any claim, demand or application for any right or privilege applicable to NYSERDA, including, without limitation, vicarious liability, professional liability coverage or indemnification, rights or privileges derived from workers' compensation coverage, unemployment insurance benefits, social security coverage and retirement membership or credit. It is understood and agreed that the personnel furnished by Contractor to perform the Work shall be Contractor's employee(s) or agent(s), and under no circumstances are such employee(s) to be considered NYSERDA's employee(s) or agent(s), and shall remain the employees of Contractor, except to the extent required by section 414(n) of the Internal Revenue Code.

(b) Contractor expressly acknowledges NYSERDA's need to be advised, on an immediate basis, of the existence of any claim or event that might result in a claim or claims against NYSERDA, Contractor and/or Contractor's personnel by virtue of any act or omission on the part of NYSERDA or its employees. Accordingly, Contractor expressly covenants and agrees to notify NYSERDA of any such claim or event, including but not limited to, requests for accommodation and allegations of harassment and/or discrimination, immediately upon contractor's discovery of the same, and to fully and honestly cooperate with NYSERDA in its efforts to investigate and/or address such claims or events, including but not limited to, complying with any reasonable request by NYSERDA for disclosure of information concerning such claim or event even in the event that this Agreement should terminate for any reason.

Article XIV

Compliance with Certain Laws

Section 14.01. Laws of the State of New York. The Contractor shall comply with all of the requirements set forth in Exhibit C hereto.

Section 14.02. All Legal Provisions Deemed Included. It is the intent and understanding of the Contractor and NYSERDA that each and every provision of law required by the laws of the State of New York to be contained in this Agreement shall be contained herein, and if, through mistake, oversight or otherwise, any such provision is not contained herein, or is not contained herein in correct form, this Agreement shall, upon the application of either NYSERDA or the Contractor, promptly be amended so as to comply strictly with the laws of the State of New York with respect to the inclusion in this Agreement of all such provisions.

Section 14.03. Other Legal Requirements. The references to particular laws of the State of New York in this Article, in Exhibit C and elsewhere in this Agreement are not intended to be exclusive and nothing contained in such Article, Exhibit and Agreement shall be deemed to modify the obligations of the Contractor to comply with all legal requirements.

Article XV

Notices, Entire Agreement, Amendment, Counterparts

Section 15.01. Notices.

(a) All notices, requests, consents, approvals and other communications which may or are required to be given by either party to the other under this Agreement shall be in writing and shall be transmitted either:

- (i) via certified or registered United States mail, return receipt requested;
- (ii) by facsimile transmission;
- (iii) by personal delivery;
- (iv) by expedited delivery service; or
- (v) by e-mail, return receipt requested.

Such notices shall be addressed as follows, or to such different addresses as the parties may from time-to-time designate as set forth in paragraph (c) below:

NYSERDA

Name: Cheryl L. Earley
Title: Director of Contract Management
Address: 17 Columbia Circle, Albany, New York 12203
Facsimile Number: (518) 862-1091
E-Mail Address: cheryl.earley@nyserda.ny.gov
Personal Delivery: Reception desk at the above address

CITY OF CORTLAND

Name: Brian Tobin
Title: Mayor
Address: 25 Court Street, Cortland, NY, 13045
Facsimile Number: N/A
E-Mail Address: mayor@cortland.org

(b) 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 email, upon receipt.

(c) The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days 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 this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

Section 15.02. Entire Agreement; Amendment. This Agreement embodies the entire agreement and understanding between NYSERDA and the Contractor and supersedes all prior agreements and understandings relating to the subject matter hereof. Except as otherwise expressly provided for herein, this Agreement may be changed, waived, discharged or terminated only by an instrument in writing, signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

Section 15.03. Counterparts. This Agreement may be executed in counterparts each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

Article XVI

Publicity

Section 16.01. Publicity.

(a) The Contractor shall collaborate with NYSERDA's Director of Communications to prepare any press release and to plan for any news conference concerning the Work. In addition

the Contractor shall notify NYSERDA's Director of Communications regarding any media interview in which the Work is referred to or discussed.

(b) It is recognized that during the course of the Work under this Agreement, the Contractor or its employees may from time to time desire to publish information regarding scientific or technical developments made or conceived in the course of or under this Agreement. In any such information, the Contractor shall credit NYSERDA's funding participation in the Project, and shall state that "NYSERDA has not reviewed the information contained herein, and the opinions expressed in this report do not necessarily reflect those of NYSERDA or the State of New York." Notwithstanding anything to the contrary contained herein, the Contractor shall have the right to use and freely disseminate project results for educational purposes, if applicable, consistent with the Contractor's policies.

(c) Commercial promotional materials or advertisements produced by the Contractor shall credit NYSERDA, as stated above, and shall be submitted to NYSERDA for review and recommendations to improve their effectiveness prior to use. The wording of such credit can be approved in advance by NYSERDA, and, after initial approval, such credit may be used in subsequent promotional materials or advertisements without additional approvals for the credit, provided, however, that all such promotional materials or advertisements shall be submitted to NYSERDA prior to use for review, as stated above. Such approvals shall not be unreasonably withheld, and, in the event that notice of approval or disapproval is not received by the Contractor within thirty days after receipt of request for approval, the promotional materials or advertisement shall be considered approved. In the event that NYSERDA requires additional time for considering approval, NYSERDA shall notify the Contractor within thirty days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to 180 days. If NYSERDA and the Contractor do not agree on the wording of such credit in connection with such materials, the Contractor may use such materials, but agrees not to include such credit.

EXHIBIT C

REVISED 5/12

STANDARD TERMS AND CONDITIONS
FOR ALL NYSERDA AGREEMENTS

(Based on Standard Clauses for New York State Contracts and Tax Law Section 5-a)

The parties to the Agreement agree to be bound by the following clauses which are hereby made a part of the Agreement:

1. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is an Agreement for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Agreement shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Agreement. If this is a building service Agreement as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Agreement and forfeiture of all moneys due hereunder for a second subsequent violation.

2. WAGE AND HOURS PROVISIONS. If this is a public work Agreement covered by Article 8 of the Labor Law or a building service Agreement 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 a condition precedent

to payment by NYSERDA of any NYSERDA-approved sums due and owing for work done upon the project.

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

4. INTERNATIONAL BOYCOTT PROHIBITION. If this Agreement exceeds \$5,000, the Contractor agrees, as a material condition of the Agreement, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the Federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the Agreement's execution, such Agreement, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify NYSERDA within five (5) business days of such conviction, determination or disposition of appeal. (See and compare Section 220-f of the Labor Law, Section 139-h of the State Finance Law, and 2 NYCRR 105.4).

5. SET-OFF RIGHTS. NYSERDA shall have all of its common law and statutory rights of set-off. These rights shall include, but not be limited to, NYSERDA's option to withhold for the purposes of set-off any moneys due to the Contractor under this Agreement up to any amounts due and owing to NYSERDA with regard to this Agreement, any other Agreement, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to NYSERDA for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto.

6. PROPRIETARY INFORMATION. Notwithstanding any provisions to the contrary in the Agreement, Contractor and NYSERDA acknowledge and agree that all information, in any format, submitted to NYSERDA shall be subject to and treated in accordance with the NYS Freedom of Information Law ("FOIL," Public Officers Law, Article 6). Pursuant to FOIL, NYSERDA is required to make available to the public, upon request, records or portions thereof which it possesses, unless that information is statutorily exempt from disclosure. Therefore, unless the Agreement specifically requires otherwise, Contractor should submit information to NYSERDA in a non-confidential, non-proprietary format. FOIL does provide that NYSERDA may deny access to records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." [See Public Officers Law, § 87(2)(d)]. Accordingly, if the Agreement specifically requires submission of information in a format Contractor considers a proprietary and/or confidential trade secret, Contractor shall fully identify and plainly label the information "confidential" or "proprietary" at the time of disclosure. By so marking such information,

Contractor represents that the information has actual or potential specific commercial or competitive value to the competitors of Contractor. Without limitation, information will not be considered confidential or proprietary if it is or has been (i) generally known or available from other sources without obligation concerning its confidentiality; (ii) made available by the owner to others without obligation concerning its confidentiality; or (iii) already available to NYSERDA without obligation concerning its confidentiality. In the event of a FOIL request, it is NYSERDA's policy to consider records as marked above pursuant to the trade secret exemption procedure set forth in 21 New York Codes Rules & Regulations § 501.6 and any other applicable law or regulation. However, NYSERDA cannot guarantee the confidentiality of any information submitted. More information on FOIL, and the relevant statutory law and regulations, can be found at the website for the Committee on Open Government (<http://www.dos.state.ny.us/coog/foil2.html>) and NYSERDA's Regulations, Part 501 (<http://www.nyserda.ny.gov/en/About/~media/Files/About/Contact/NYSERDARegulations.aspx>).

7. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. As a condition to NYSERDA's obligation to pay any invoices submitted by Contractor pursuant to this Agreement, Contractor shall provide to NYSERDA its Federal employer identification number or Federal social security number, or both such numbers when the Contractor has both such numbers. Where the Contractor does not have such number or numbers, the Contractor must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION. 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 Contractor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

8. CONFLICTING TERMS. In the event of a conflict between the terms of the Agreement (including any and all attachments thereto and amendments thereof) and the terms of this Exhibit C, the terms of this Exhibit C shall control.

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

10. NO ARBITRATION. Disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily required) without the NYSERDA's written consent, but must, instead, be heard in a court of competent jurisdiction of the State of New York.

11. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law and 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 NYSERDA's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify NYSERDA, in writing, of each and every change of address to which service of process can be made. Service by NYSERDA to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

12. CRIMINAL ACTIVITY. If subsequent to the effectiveness of this Agreement, NYSERDA comes to know of any allegation previously unknown to it that the Contractor or any of its principals is under indictment for a felony, or has been, within five (5) years prior to submission of the Contractor's proposal to NYSERDA, convicted of a felony, under the laws of the United States or Territory of the United States, then NYSERDA may exercise its stop work right under this Agreement. If subsequent to the effectiveness of this Agreement, NYSERDA comes to know of the fact, previously unknown to it, that Contractor or any of its principals is under such indictment or has been so convicted, then NYSERDA may exercise its right to terminate this Agreement. If the Contractor knowingly withheld information about such an indictment or conviction, NYSERDA may declare the Agreement null and void and may seek legal remedies against the Contractor and its principals. The Contractor or its principals may also be subject to penalties for any violation of law which may apply in the particular circumstances. For a Contractor which is an association, partnership, corporation, or other organization, the provisions of this paragraph apply to any such indictment or conviction of the organization itself or any of its officers, partners, or directors or members of any similar governing body, as applicable.

13. PERMITS. It is the responsibility of the Contractor to acquire and maintain, at its own cost, any and all permits, licenses, easements, waivers and permissions of every nature necessary to perform the work.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this Agreement will be in accordance with, but not limited to, the specifications and provisions of State Finance Law Section 165 (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by NYSERDA.

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

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
30 South Pearl St -- 7th Floor

Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
<http://www.esd.ny.gov>

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
30 South Pearl St -- 2nd Floor
Albany, New York 12245
Telephone: 518-292-5250
Fax: 518-292-5803
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this Agreement, Contractors certify that whenever the total amount is greater than \$1 million:

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

16. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

17. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

18. PROCUREMENT LOBBYING. To the extent this Agreement is a “procurement contract” as defined by State Finance Law Sections 139-j and 139-k, by signing this Agreement the Contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, NYSERDA may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

19. COMPLIANCE WITH TAX LAW SECTION 5-a. The following provisions apply to Contractors that have entered into agreements in an amount exceeding \$100,000 for the purchase of goods and services:

- a) Before such agreement can take effect, the Contractor must have on file with the New York State Department of Taxation and Finance a Contractor Certification form (ST-220-TD).
- b) Prior to entering into such an agreement, the Contractor is required to provide NYSERDA with a completed Contractor Certification to Covered Agency form (Form ST-220-CA).
- c) Prior to any renewal period (if applicable) under the agreement, the Contractor is required to provide NYSERDA with a completed Form ST-220-CA.

Certifications referenced in paragraphs (b) and (c) above will be maintained by NYSERDA and made a part hereof and incorporated herein by reference.

NYSERDA reserves the right to terminate this agreement in the event it is found that the certification filed by the Contractor in accordance with Tax Law Section 5-a was false when made.

20. IRANIAN ENERGY SECTOR DIVESTMENT. In accordance with Section 2879-c of the Public Authorities Law, by signing this contract, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law (See www.ogs.ny.gov/about/regs/ida.asp).

EXHIBIT D

NYSERDA PROMPT PAYMENT POLICY STATEMENT

504.1. Purpose and Applicability. (a) The purpose of this Exhibit is to provide a description of Part 504 of NYSERDA's regulations, which consists of NYSERDA's policy for making payment promptly on amounts properly due and owing by NYSERDA under this Agreement. The section numbers used in this document correspond to the section numbers appearing in Part 504 of the regulations.²

(b) This Exhibit applies generally to payments due and owing by the NYSERDA to the Contractor pursuant to this Agreement. However, this Exhibit does not apply to Payments due and owing when NYSERDA is exercising a Set-Off against all or part of the Payment, or if a State or Federal law, rule or regulation specifically requires otherwise.

504.2. Definitions. Capitalized terms not otherwise defined in this Exhibit shall have the same meaning as set forth earlier in this Agreement. In addition to said terms, the following terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) "Date of Payment" means the date on which NYSERDA requisitions a check from its statutory fiscal agent, the Department of Taxation and Finance, to make a Payment.

(b) "Designated Payment Office" means the Office of NYSERDA's Controller, located at 17 Columbia Circle, Albany, New York 12203.

(c) "Payment" means payment properly due and owing to Contractor pursuant to Article IV, Exhibit B of this Agreement.

(d) "Prompt Payment" means a Payment within the time periods applicable pursuant to Sections 504.3 through 504.5 of this Exhibit in order for NYSERDA not to be liable for interest pursuant to Section 504.6.

(e) "Payment Due Date" means the date by which the Date of Payment must occur, in accordance with the provisions of Sections 504.3 through 504.5 of this Exhibit, in order for NYSERDA not to be liable for interest pursuant to Section 504.6.

(f) "Proper Invoice" means a written request for Payment that is submitted by a Contractor setting forth the description, price or cost, and quantity of goods, property or services delivered or rendered, in such form, and supported by such other substantiating documentation, as NYSERDA may reasonably require, including but not limited to any requirements set forth in Exhibits A or B to this Agreement; and addressed to NYSERDA's Controller, marked "Attention: Accounts Payable," at the Designated Payment Office.

² This is only a summary; the full text of Part 504 can be accessed at:
<http://www.nyserda.ny.gov/en/About/~media/Files/About/Contact/NYSERDARegulations.ashx>

(g)(1) "Receipt of an Invoice" means:

(i) if the Payment is one for which an invoice is required, the later of:

(a) the date on which a Proper Invoice is actually received in the Designated Payment Office during normal business hours; or

(b) the date by which, during normal business hours, NYSERDA has actually received all the purchased goods, property or services covered by a Proper Invoice previously received in the Designated Payment Office.

(ii) if the Agreement provides that a Payment will be made on a specific date or at a predetermined interval, without having to submit a written invoice the 30th calendar day, excluding legal holidays, before the date so specified or predetermined.

(2) For purposes of this subdivision, if the Agreement requires a multifaceted, completed or working system, or delivery of no less than a specified quantity of goods, property or services and only a portion of such systems or less than the required goods, property or services are working, completed or delivered, even though the Contractor has invoiced NYSERDA for the portion working, completed or delivered, NYSERDA will not be in Receipt of an Invoice until the specified minimum amount of the systems, goods, property or services are working, completed or delivered.

(h) "Set-off" means the reduction by NYSERDA of a payment due a Contractor by an amount equal to the amount of an unpaid legally enforceable debt owed by the Contractor to NYSERDA.

504.3. Prompt Payment Schedule. Except as otherwise provided by law or regulation or in Sections 504.4 and 504.5 of this Exhibit, the Date of Payment by NYSERDA of an amount properly due and owing under this Agreement shall be no later than thirty (30) calendar days, excluding legal holidays, after Receipt of a Proper Invoice.

504.4. Payment Procedures.

(a) Unless otherwise specified in this Agreement, a Proper Invoice submitted by the Contractor to the Designated Payment Office shall be required to initiate payment for goods, property or services. As soon as any invoice is received in the Designated Payment Office during normal business hours, such invoice shall be date-stamped. The invoice shall then promptly be reviewed by NYSERDA.

(b) NYSERDA shall notify the Contractor within fifteen (15) calendar days after Receipt of an Invoice of:

(1) any defects in the delivered goods, property or services;

- (2) any defects in the invoice; or
- (3) suspected improprieties of any kind.

(c) The existence of any defects or suspected improprieties shall prevent the commencement of the time period specified in Section 504.3 until any such defects or improprieties are corrected or otherwise resolved.

(d) If NYSERDA fails to notify a Contractor of a defect or impropriety within the fifteen (15) calendar day period specified in subdivision (b) of this section, the sole effect shall be that the number of days allowed for Payment shall be reduced by the number of days between the 15th day and the day that notification was transmitted to the Contractor. If NYSERDA fails to provide reasonable grounds for its contention that a defect or impropriety exists, the sole effect shall be that the Payment Due Date shall be calculated using the original date of Receipt of an Invoice.

(e) In the absence of any defect or suspected impropriety, or upon satisfactory correction or resolution of a defect or suspected impropriety, NYSERDA shall make Payment, consistent with any such correction or resolution and the provisions of this Exhibit.

504.5. Exceptions and Extension of Payment Due Date. NYSERDA has determined that, notwithstanding the provisions of Sections 504.3 and 504.4 of this Exhibit, any of the following facts or circumstances, which may occur concurrently or consecutively, reasonably justify extension of the Payment Due Date:

(a) If this Agreement provides Payment will be made on a specific date or at a predetermined interval, without having to submit a written invoice, if any documentation, supporting data, performance verification, or notice specifically required by this Agreement or other State or Federal mandate has not been submitted to NYSERDA on a timely basis, then the Payment Due Date shall be extended by the number of calendar days from the date by which all such matter was to be submitted to NYSERDA and the date when NYSERDA has actually received such matter.

(b) If an inspection or testing period, performance verification, audit or other review or documentation independent of the Contractor is specifically required by this Agreement or by other State or Federal mandate, whether to be performed by or on behalf of NYSERDA or another entity, or is specifically permitted by this Agreement or by other State or Federal provision and NYSERDA or other entity with the right to do so elects to have such activity or documentation undertaken, then the Payment Due Date shall be extended by the number of calendar days from the date of Receipt of an Invoice to the date when any such activity or documentation has been completed, NYSERDA has actually received the results of such activity or documentation conducted by another entity, and any deficiencies identified or issues raised as a result of such activity or documentation have been corrected or otherwise resolved.

(c) If an invoice must be examined by a State or Federal agency, or by another party contributing to the funding of the Contract, prior to Payment, then the Payment Due Date shall

be extended by the number of calendar days from the date of Receipt of an Invoice to the date when the State or Federal agency, or other contributing party to the Contract, has completed the inspection, advised NYSERDA of the results of the inspection, and any deficiencies identified or issues raised as a result of such inspection have been corrected or otherwise resolved.

(d) If appropriated funds from which Payment is to be made have not yet been appropriated or, if appropriated, not yet been made available to NYSERDA, then the Payment Due Date shall be extended by the number of calendar days from the date of Receipt of an Invoice to the date when such funds are made available to NYSERDA.

504.6. Interest Eligibility and Computation. If NYSERDA fails to make Prompt Payment, NYSERDA shall pay interest to the Contractor on the Payment when such interest computed as provided herein is equal to or more than ten dollars (\$10.00). Interest shall be computed and accrue at the daily rate in effect on the Date of Payment, as set by the New York State Tax Commission for corporate taxes pursuant to Section 1096(e)(1) of the Tax Law. Interest on such a Payment shall be computed for the period beginning on the day after the Payment Due Date and ending on the Date of Payment.

504.7. Sources of Funds to Pay Interest. Any interest payable by NYSERDA pursuant to Exhibit shall be paid only from the same accounts, funds, or appropriations that are lawfully available to make the related Payment.

504.8. Incorporation of Prompt Payment Policy Statement into Contracts. The provisions of this Exhibit shall apply to all Payments as they become due and owing pursuant to the terms and conditions of this Agreement, notwithstanding that NYSERDA may subsequently amend its Prompt Payment Policy by further rulemaking.

504.9. Notice of Objection. Contractor may object to any action taken by NYSERDA pursuant to this Exhibit that prevents the commencement of the time in which interest will be paid by submitting a written notice of objection to NYSERDA. Such notice shall be signed and dated and concisely and clearly set forth the basis for the objection and be addressed to the Vice President, New York State Energy Research and Development Authority, at the notice address set forth in Exhibit B to this Agreement. The Vice President of NYSERDA, or his or her designee, shall review the objection for purposes of affirming or modifying NYSERDA's action. Within fifteen (15) working days of the receipt of the objection, the Vice President, or his or her designee, shall notify the Contractor either that NYSERDA's action is affirmed or that it is modified or that, due to the complexity of the issue, additional time is needed to conduct the review; provided, however, in no event shall the extended review period exceed thirty (30) working days.

504.10. Judicial Review. Any determination made by NYSERDA pursuant to this Exhibit that prevents the commencement of the time in which interest will be paid is subject to judicial review in a proceeding pursuant to Article 78 of the Civil Practice Law and Rules. Such proceedings shall only be commenced upon completion of the review procedure specified in Section 504.9 of this Exhibit or any other review procedure that may be specified in this Agreement or by other law, rule, or regulation.

504.11. Court Action or Other Legal Processes.

(a) Notwithstanding any other law to the contrary, the liability of NYSERDA to make an interest payment to a Contractor pursuant to this Exhibit shall not extend beyond the date of a notice of intention to file a claim, the date of a notice of a claim, or the date commencing a legal action for the payment of such interest, whichever occurs first.

(b) With respect to the court action or other legal processes referred to in subdivision (a) of this section, any interest obligation incurred by NYSERDA after the date specified therein pursuant to any provision of law other than Public Authorities Law Section 2880 shall be determined as prescribed by such separate provision of law, shall be paid as directed by the court, and shall be paid from any source of funds available for that purpose.

Exhibit E

New York State Energy Research and Development Authority

Report Content Guide 2014

Revised 1/13/2014

(Replaces the NYSERDA Report Format and Style Guide AND the Report Content Guide 2013)

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2	Required Elements
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1 Purpose

This document explains how to prepare and submit a report to the New York State Energy Research and Development Authority (NYSERDA). It includes details on the elements of the report, specifications for formatting and accessibility, and information on electronic submission. Please follow these instructions unless your NYSERDA contract specifies otherwise.

NYSERDA will publish the finished report deliverable online and/or in print. Please direct questions about technical content and submission deadlines to your NYSERDA project manager. For questions related to formatting and electronic submission of the report, contact Diane Welch, NYSERDA Marketing, 518-862-1090, ext. 3276 or diane.welch@nysesda.ny.gov.

2 Required Elements

Section 5 includes a brief checklist of the required elements. This section contains details about the items that are required in all reports (unless noted as optional). Items should appear and be paginated in the following sequence:

- Title page (no page number):
 - o Include title of report, draft or final, prepared for NYSERDA, NYSERDA Project Manager (name and title), prepared by name and affiliation, report number, contract number and date report submitted.
- Notice (small Roman numerals for page numbers i.e., ii):
 - o Option 1—When NYSERDA is the project’s sole sponsor, this notice must be used:

Notice

This report was prepared by [Insert Preparer’s Name] in the course of performing work contracted for and sponsored by the New York State Energy Research and Development Authority (hereafter “NYSERDA”). The opinions expressed in this report do not necessarily reflect those of NYSERDA or the State of New York, and reference to any specific product, service, process, or method does not constitute an implied or expressed recommendation or endorsement of it. Further, NYSERDA, the State of New York, and the contractor make no warranties or representations, expressed or implied, as to the fitness for particular purpose or merchantability of any product, apparatus, or service, or the usefulness, completeness, or accuracy of any processes, methods, or other information contained, described, disclosed, or referred to in this report. NYSERDA, the State of New York, and the contractor make no representation that the use of any product, apparatus, process, method, or other information will not infringe privately owned rights and will assume no liability for any loss, injury, or damage resulting from, or occurring in connection with, the use of information contained, described, disclosed, or referred to in this report.

NYSERDA makes every effort to provide accurate information about copyright owners and related matters in the reports we publish. Contractors are responsible for determining and satisfying copyright or other use restrictions regarding the content of reports that they write, in compliance with NYSERDA’s policies and federal law. If you are the copyright owner and

believe a NYSERDA report has not properly attributed your work to you or has used it without permission, please email print @nyserda.ny.gov.

- o Option 2—When there are project co-sponsors in addition to NYSERDA, use the following notice instead:

Notice

This report was prepared by [Insert Preparer's Name] in the course of performing work contracted for and sponsored by the New York State Energy Research and Development Authority and the [Insert Co-Sponsor's Name] (hereafter the "Sponsors"). The opinions expressed in this report do not necessarily reflect those of the Sponsors or the State of New York, and reference to any specific product, service, process, or method does not constitute an implied or expressed recommendation or endorsement of it. Further, the Sponsors, the State of New York, and the contractor make no warranties or representations, expressed or implied, as to the fitness for particular purpose or merchantability of any product, apparatus, or service, or the usefulness, completeness, or accuracy of any processes, methods, or other information contained, described, disclosed, or referred to in this report. The Sponsors, the State of New York, and the contractor make no representation that the use of any product, apparatus, process, method, or other information will not infringe privately owned rights and will assume no liability for any loss, injury, or damage resulting from, or occurring in connection with, the use of information contained, described, disclosed, or referred to in this report.

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- Abstract and Keywords (optional; small Roman numerals for page numbers):
 - o The Abstract is a brief, approximately 200-word description of project objectives, investigative methods used, and research conclusions or applications. This information will be used when NYSERDA registers the report with the New York State Library and the Library of Congress. A list of keywords that describe the project and identify the major research concept should be submitted with the report. Four to six precise descriptors are generally sufficient and will be used for indexing, registering and distributing the report.
- Acknowledgments (optional; small Roman numerals for page numbers):
 - o If included, the Acknowledgments page precedes the Table of Contents and is generally no longer than two paragraphs in length.
- Table of Contents (small Roman numerals for page numbers):
 - o The Table of Contents should list front matter material and titles and section numbers for heading levels one through four. Additional levels should not be used in the report. If the heading styles are applied in Word, the list can be automatically generated.
- List of Figures (small Roman numerals for page numbers).

- If the report contains three or more figures, they should be listed using the style of the Table of Contents. (If the figure titles in text have the caption function applied in Word, the list can be automatically generated.)
- List of Tables (small Roman numerals for page numbers).
 - If the report contains three or more tables, they should be listed using the style of the Table of Contents. (If the figure titles in text have the caption function applied in Word, the list can be automatically generated.)
- Acronyms and Abbreviations List (small Roman numerals for page numbers):
 - All acronyms and abbreviations should be spelled out and followed by the acronym or abbreviation in parentheses on first use.
 - First reference to NYSERDA in text should be “the New York State Energy Research and Development Authority (NYSERDA).” Subsequent references should read simply “NYSERDA.”
 - When referring to New York State, use “New York State” on first use and abbreviate “the State” for subsequent uses.
- Executive Summary or Summary (optional; ES-1 or S-1 etc. for page numbers of Executive Summary and Summary, respectively):
 - An Executive Summary is two pages in length maximum. A Summary is a shorter version of the report and varies in length but less than 10 percent of the main report is a good guideline.
- Main Text (pages sequentially numbered i.e., 1, 2, 3 etc. preferred, but chapter-page acceptable).
- Figures and tables with sequential numbering (Figure 1, Figure 2, etc. preferred but sequential chapter-number are acceptable), callouts in text (i.e., Figure 1 shows...) and Alternative Text to comply with ADA Accessibility are required.
 - Figures and tables at the back of the document are preferred for documents that NYSERDA will be formatting; figures and tables placed in-line with text near callout is acceptable.
- References Cited and Bibliography information (continue sequential page numbering):
 - References Cited vs. Bibliography: References Cited has specific references called out in text to document sources of specific information, and a bibliography is a list of sources used to compile a document but does not have callouts for specific facts in the text.
 - Endnote style for reference citations is preferred but footnotes are acceptable.
 - Format of reference callout in text for footnote or endnote is the author-date callout in text (i.e., Wood and Stone 2010).
 - Full reference citations listed alphabetically by the last name of the first author.
 - Citation format is based on Chapter 15 (Documentation II: Author-Date References) of *The Chicago Manual of Style* (16th edition).

Appendices (optional; A-1 etc for Appendix A, B-1 etc for Appendix B page numbering):

- In NYSERDA reports, Appendices should be called appendices and not Attachments. Attachments are used to append a document to an appendix. (Attachments may have different definitions in emails and legal documents.)

Alternative text that describes figures and tables to meet Accessibility requirements (a separate Word file is fine).

2.1 Copyright for Intellectual Property

All material borrowed or adapted from other sources should be properly identified (i.e., document, source, date, and page). The contractor must obtain and submit to NYSERDA the copyright owner's written permission to use any illustrations, photographs, tables, figures, or substantial amounts of text from any other publication.

For each figure and table, the contractor must also provide a source line that gives the original source and any language stating permission to reprint that should be published with each respective table or figure.

2.2 Americans with Disabilities Act (ADA) Accessibility Compliance

As a State Authority, NYSERDA is obligated to ensure that all documents published on NYSERDA's website are accessible, pursuant to Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220 August 7, 1998).

To meet the needs of persons with visual or mobility disabilities, reports must be in a format that allows for conversion of written words of an electronic document into speech, thus allowing the person with a disability to hear the text. The formatting of these documents is critical to the success of the conversion from text to speech. Screen reading software will read the document as one long series of paragraphs with no differentiation for new topics unless properly formatted with Heading Styles. (Imagine reading a textbook with no difference in text from one paragraph to the next.)

Reports submitted to NYSERDA must meet the following requirements:

- Use numbered headings in the document up to Level 4 (i.e., 1.1.1.1).
- Pick one of the formatting options outlined in Section 3 of this document.
- Provide short titles for all tables, images and figures.
- Provide Alternative Text (also known as alt-text) that describes the visual elements of each image, figure and table—and does not just repeat the title or caption.
 - o Write out links in documents that will be printed. Write the sentence so that the URL is not at the end and followed by a period. See the last bulleted item for an example (“Visit....”).
 - o Avoid linking to “click here” or including extremely long URLs. For web-only documents, use contextual links, such as linking NYSERDA's website to “NYSERDA” instead of putting a long URL in text.
 - o Visit nyserdera.ny.gov/resources/ for more information about how to make a document accessible.

3 Formatting

Contractors have two options for the format of a submitted document:

Option 1—NYSERDA does the formatting

- Contractor emails to NYSERDA Project Manager a Word file of all report components with all text in Times New Roman 10 pt font.

- File should include outline level numbering with each section head (1 Level 1 Heading, 1.1 Level 2 Heading, 1.1.1 Level 3 Heading, 1.1.1.1 Level 4 Heading), not to exceed Level 4.
- Each figure and table should have a callout in the main text (i.e., Figure 1 shows... or According to Figure 1,... or (Figure 1) at the end of a sentence).
- Figures and tables along with their titles (and captions if necessary) should be grouped together at the back of the file or supplied in a separate file. Contractor can request inline or back-of-report placement of figures.
- NYSERDA will format the document according to the 2014 NYSERDA Marketing's Template for Technical Reports.

Option 2—Contractor does the formatting

- Visit nyserda.ny.gov/resources/ to download:
 - o Report template (2014 NYSERDA Marketing's Template for Reports).
 - o Details about report formatting (NYSERDA Report Formatting Guide 2014).
- Apply each of the Word Styles in the template to the elements of the document as appropriate, such as apply Heading 1 to all first-level headings, Body Text to all body text and References to reference materials. Place figures and captions after each respective call-out OR in order at the back of the report.

4 Submitting a Report to NYSERDA

No print drafts of the report are required. An electronic Word version of the draft report should be emailed to the NYSERDA Project Manager. Contact the Project Manager regarding how to transfer large files. The contractor is responsible for satisfactorily addressing comments from NYSERDA and other co-sponsors. When making corrections, the contractor must ensure that technical content is not compromised. After editorial corrections have been made, the contractor must email to the Project Manager a Word version of the final report.

5 Contacts

- The NYSERDA Project Manager should be the contractor's primary point of contact.
- For additional questions, contact Diane Welch in NYSERDA Marketing at diane.welch@nyserda.ny.gov or 518-862-1090 ext. 3276.
- Contractors can also email print@nyserda.ny.gov or call 518-862-1090 and ask for Marketing.

6 Required Elements Checklist

- Title page (no page number).
- Notice (small Roman numeral page numbers, i.e., ii).
- Abstract and Keywords (optional; small Roman numerals).
- Acknowledgments (optional; small Roman numerals).
- Table of Contents (small Roman numerals).
- List of Figures (small Roman numerals).
- List of Tables (small Roman numerals).

- Acronyms and Abbreviations List (small Roman numerals).
- Executive Summary or Summary (optional; ES-1 or S-1 etc).
- Main Text (pages sequentially numbered i.e., 1, 2, 3 etc.).
- Figures and tables with sequential numbering (Figure 1, Figure 2, etc), callouts in text (i.e., Figure 1 shows...), and Alt Text for ADA Accessibility.
 - o Figures and tables at the back of the document are preferred for documents that NYSERDA will be formatting; figures and tables placed in-line with text after first callout are acceptable.

References Cited and Bibliography information.

Appendices (optional; page numbering is A-1 etc for Appendix A, B-1 etc for Appendix B).

Copyright information for intellectual property (i.e., images, figures, tables or large pieces of text that have been previously published)—include written permission from the copyright holder at the end of the document and use appropriate language in the captions of the images, figures and tables such as “Reprinted with permission from [publisher’s name].”

- Alternative text that describes each figure, table and image —and does not just repeat the title or caption. (See Section 2.2 for more information.) The text should be listed at the end of the document or provided in a separate file.

Exhibit F – Performance Metrics
CGC Program, Phase II: Category 2
Cortland Zoning
CFA # 29757/Contract # 39503

The goals of the CGC Category 2 planning grants are to foster mid- to long-term policy change that will create more sustainable communities and reduce greenhouse gases (GHG) in the region. This CGC Performance Metrics Exhibit defines obligations of the Contractor to create and report metrics to NYSERDA for estimating the potential benefits of planning activities. NYSERDA reserves the right to request additional data or metrics and update reporting requirements as needed.

1. Definitions

CGC Required Performance Metrics (RPMs): RPMs are required of all CGC grantees and are designed to help NYSERDA estimate potential benefits across all CGC investment. For planning grants these shall be reported by the Contractor as projected community-wide, indirect benefits over near-term (5 years), mid-term (10 years) and long-term (15 years) periods. The RPMs shall quantify the estimated benefits that shall be achieved through the adoption of sustainability plans and policies by local governments. RPMs include:

- Number of permanent jobs created (full-time equivalent [FTE])
- Energy cost savings/year (\$)
- NYSERDA CGC investment (\$)
- Other investment (\$)
- Total energy savings by fuel type/year (million British thermal units[MMBTU]); and
- GHG savings/year (metric tons carbon dioxide equivalents [MTCDE]).

Sector-common metrics (SCM): Specific metrics common to only a subset of the CGC projects or planned measures. Specific metrics such as estimated grid-supplied electricity reductions, potential increased renewable energy capacity, or vehicle miles traveled (VMT) reduction shall be assigned to the project to provide more detailed estimates for the RPMs, where applicable.

Common Planning Metrics (CPM): An additional set of commonly used planning metrics may be requested by NYSERDA to estimate future benefits of the CGC planning project. CPMs shall use performance metrics and standards used within LEED® for Neighborhood Development (LEED- ND) or other systems and standards commonly used to quantify the benefits of sustainable planning practices.

Regional Sustainability Plan (RSP) Metrics: These are metrics that align with the indicators included in the RSPs developed during CGC Phase I to support RSP goals. The Contractor should identify any RPMs, SCMs or CPMs that align with RSP indicators. Links to the RSPs are available at <http://www.nyserra.ny.gov/cgc>

Benefits: The resulting quantified values of the actual or projected metrics that demonstrate the success and impact of the plan. For Category 2 projects, it is assumed that all benefits will be indirect because project-specific implementation shall not take place with this type of CGC investment.

2. Preparing the Project Benefits Metrics Report (PBMR)

The Contractor shall submit a draft preliminary PBMR with the first quarterly report that proposes the metrics and methodology for data development to be used for near-, mid-, and long-term community benefit projections. The draft PBMR shall include the following:

- All six of the CGC RPMs.
- SCMs that are applicable for estimating RPMs because they are specific to the goals of the planning efforts (i.e., VMT/year, if planning effort includes a goal of increasing public transportation; or estimated household electricity use savings, if the planning effort includes an energy-efficiency standard for new housing).
- CPMs shall be identified by NYSERDA and/or proposed by the Contractor to demonstrate benefits that directly correlate with the specific type of planning grant project. NYSERDA may request the Contractor to participate in a NYSERDA-led discussion group with other CGC participants to identify a set of CPMs that shall most accurately reflect community benefits of Category 2 planning grant projects. NYSERDA and the Regional Outreach Coordinators shall be available to assist the Contractor in the identification of CPMs that are appropriate for their project and the methodology or approach to use in the data collection and analysis. A minimum of three CPMs should be included for all planning projects.
- RSP metrics that align with the RSP should also be indicated. For example, if an RSP goal is to increase transit ridership by 15%, and the project shall include efforts to improve public transportation, then a metric quantifying the expected increase in transit ridership (as a percentage or number of riders) should indicate that it aligns with the RSP on the PBMR. Other RSP metrics that are not already included as an RPM, SCM, or CPM are also encouraged to the extent the data are readily available over time and applicable to the project.

NYSERDA shall work with CGC Category 2 Contractors during project start-up to finalize the format and content of the PBMR. A sample is shown below.

EXAMPLE: Benefit Estimate Sheet: Village of XX Comprehensive Plan Benefits					
Type	In RSP?	Metric	5 Year	10 Year	15 Year
RPM		Permanent Jobs (FTE)			
RPM		Energy Cost Savings / year (\$)			
RPM		NYSERDA CGC investment (\$)			
RPM		Cost Share (\$)			
RPM	Yes	Total Energy Savings / year (MMBTU)			
RPM	Yes	GHG Savings / year (MTCDE)			
SCM		Electricity Use Reductions (kWh/year, MMBTU/year)			
SCM		Fossil Fuel Use Reductions (MMBTU/year)			
SCM		New Renewable Energy Capacity (kW)			
SCM	Yes	Vehicle Miles Traveled (VMT) Reductions/year (#)			
SCM	Yes	Solid waste diverted from Landfill/ year (Tons)			
CPM	Yes	Acres of Agricultural Land in Non-agricultural Use			
CPM	Yes	Housing + Transportation Index			
CPM	Yes	% of People Commuting via Walking, Biking, Public Transit			

3. Documenting Methods and Assumptions

The Contractor shall propose performance metrics and the methods for data collection and calculation of the 5-, 10- and 15-year estimated benefits for plans and policies developed and adopted and include these with the draft PBMR. Contractors should rely upon data specific to their own communities, if possible. However, it is acceptable to cite existing standards, research studies, literature, and other peer-reviewed rules of thumb sources and tools to estimate near-, mid-, and long-term benefits of policies for a portion of the metrics. The Contractor should identify all tools and assumptions needed to validate the estimates. The draft PBMR, including methodologies for data collection, shall be completed and included in the first quarterly report. The Contractor and NYSERDA shall finalize a metric reporting schedule, calculation methods, assumptions, and data collection requirements for these metrics by the mid-term review.

4. Final Reporting and Submittal

At the conclusion of the project, and based on the actual policies that have been developed as a result of the Contractor's work, the Contractor shall quantify project benefits based on the methods agreed to and complete and submit the PBMR. The Contractor should be prepared to submit supporting documentation for review and signoff by NYSERDA as part of the final project report.

For plans/policies supported under the project but not formally adopted at time of project close, all benefits shall be set to zero as the baseline condition. Contractors shall have up to one year after the close of the project to document efforts to achieve policy or plan adoption in order for benefits metrics to be counted in program reporting.

5. CGC Sustainability Policy Inventory

NYSERDA anticipates tracking the number and type of policies that are implemented as a result of the CGC Category 2 Planning Grant investments. Contractors shall be required to also report all policies adopted and any outcomes or lessons learned as a result of this project.

