Request for Proposal for Planning Services on Local Waterfront Revitalization Program Town of Germantown, Columbia County, NY

Issued by:

Town of Germantown, NY

Local Waterfront Revitalization Program Committee

50 Palatine Park Rd

Germantown, NY 12526

518-537-6687

Date Issued: February 9, 2021

This RFP was prepared with funding provided by the New York State Department of State under Title 11 of the Environmental Protection Fund.



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I. Project Description with Site Conditions

A. Intent, Purpose and Background

The Town of Germantown, NY (the "Town" or "Germantown") will develop a Local Waterfront Revitalization Program (LWRP) that will express the Town's vision for its waterfront. The LWRP will promote public access and recreational opportunities, identify sustainable approaches to mitigate climate change impacts, stimulate economic development, and plan connections to the Hudson Valley Greenway Water Trail and Empire State Trail.

This project involves the preparation of a Local Waterfront Revitalization Program (LWRP) pursuant to the provisions of New York State Executive Law, Article 42, and 19NYCRR Parts 600-603, for the Town of Germantown. Completion of this project may integrate preparation of a harbor management plan (HMP) as set forth in 19 NYCRR Part 603.3 and further described in guidelines prepared by the Office of Planning and Development.

The Town of Germantown is located on the Hudson River and Roeliff Jansen Kill and has approximately five miles of shoreline. The primary waterfront issues to be addressed by the Town of Germantown in the LWRP have been preliminarily identified as improving and expanding public and recreational access and promoting climate resilience while preserving significant cultural, scenic, historical and natural features within the Town's waterfront area. The Town's LWRP will identify potential projects and actions that articulate a future vision for their waterfront area.

The Town of Germantown hereby issues a Request for Proposals ("RFP") to procure a planning consultant to undertake the development of its Local Waterfront Revitalization Program.

The LWRP will be prepared with funding provided by the New York State Department of State ("NYSDOS") under Title 11 of the Environmental Protection Fund. Grant funds to develop the LWRP will be matched by a combination of cash and in-kind services.

Previous planning efforts include the development of a Local Waterfront Revitalization Strategy for the Town: Town of Germantown Local Waterfront Revitalization Study, April 2018

The Town's Local Waterfront Revitalization Study ("LWRS"), provided in Attachment A., can be a resource for many of the Tasks described in the Workplan in Attachment C., specifically inventory analysis, identification of key waterfront issues, a waterfront vision and implementation strategyincluding proposed project.

II. NYSDOS Contract Workplan Tasks

A. Description

Please see Attachment C.: Workplan for the Town of Germantown Local Waterfront Revitalization Program for the complete scope of work. This RFP seeks proposals for professional planning services on Tasks 6-23 of that workplan.

B. Roles of the Consultant, Members of the LWRP Committee, and Municipal Staff

The members of the LWRP committee, Town municipal staff and the Consultant will have to work together to ensure the best possible outcome of the LWRP project with a limited budget.

The Committee has professional skillsets and strengths in a number of areas, such as land-use planning, code review, report writing, GIS mapping, environmental permitting, grant administration, and leading community meetings. Over half of the members of the Committee also have prior waterfront planning experience from preparing the Town's LWRS, finalized in 2018 and provided in Attachment A. A more complete description of committee members and their strengths is presented in Attachment D. Additionally, Committee chairperson Jennifer Crawford, PE has committed to donating up to \$3,000 at a rate of \$60/hr in professional services, and other committee members collectively up to \$10,000 at a rate of \$15/hr.

The Town has dedicated the resources of some municipal staff, such as the Town Clerk, the Town Attorney, and the Highway Superintendent, to the completion of this project. The Town Board shall be responsible for authorizing use of those resources, as coordinated and managed by the Committee Chairperson. The Consultant shall coordinate with the Committee Chairperson to utilize these resources in accordance with the scope of work agreed to in the final contract between the Town and the Consultant.

The allocated contributions and budgets are indicated in Attachment B.

The Town recognizes that different Consultant teams may bring different strengths and skillsets to this project, and that the LWRP Committee has highly qualified professional donated labor available to this project. The ideal division of labor between the LWRP Committee and the Consultant will depend to some extent on the strengths of the Consultant chosen for the project. The Town asks that the Consultants propose a breakdown which, in their experience, would complement the strengths of the Consultant team and the Committee in order to maximize the content and quality of deliverables with the pre-described funding amount. The Consultant shall review the skillsets of the LWRP Committee, as summarized in Attachment D., and propose an efficient division of labor that maximizes the talents of each group, as part of their Scope of Work Schedule (see Form in Attachment H).

The Committee has access to audio/video presentation equipment, and community spaces for hosting community meetings. The Consultant does not need to include these resources in the proposed utilization plan. The Town also has a commitment of up to \$5,000 in color

8.5x11 or 11x17 printed materials; the Consultant should include a maximum \$1,500 budget for an adequate amount of binders, poster-size printed materials or other types of community outreach expenses the Consultant might recommend.

Consultants will be encouraged to attend LWRP Committee meetings, typically held on the second Monday of every month. Not all Committee meetings require attendance, though meetings with major updates would be prioritized. Committee meetings can be attended virtually. The Consultant should also plan to attend at least two in-person, Committee-led site visits to the Germantown waterfront and surrounding lands.

C. Performance measures

The success of deliverables identified in application and subsequent contract will be dependent on DOS approval.

The selected Consultant must comply with all applicable terms and conditions of the Town's contract with the NYSDOS for this work (C001642), a copy of which is attached as Attachment F.

III. Budget

This RFP has a maximum budget of \$75,000 (with a local match of \$25,000), subject to NYSDOS approval. There is a total MWBE goal of 30% (\$22,500), with a 15% MBE goal (\$11,250) and a 15% WBE goal (\$11,250). Please see Attachment B for additional information. Budgets shall be considered as not-to-exceed amounts.

IV. Minority and Women Business Enterprise (MWBE) utilization goals

The Town shall actively solicit proposals for contracts and subcontracts from qualified State certified MWBEs which can be identified using the NYS Directory of Certified Firms (https://ny.newnycontracts.com/). The Town shall retain records of the procurement process including direct solicitation to MWBEs and the results thereof and maintain records of actions that its subcontractors have taken toward meeting MWBE contract participation goals.

Pursuant to NYS Executive Order 15-A and 5NYCRR Parts 142-144 for the purposes of this procurement, the NY DOS establishes an overall goal of (30%) for MWBE participation, with 15% Minority Business Enterprise Participation and 15% Women's Business Enterprise Participation. (See directory of Certified Firms). For the purposes of meeting these participation goals please identify how the MWBE goal will be satisfied, or if a waiver will be requested.

V. Evaluation criteria

The Town will award the contract to the Consultant deemed, in its sole discretion, to be able to perform in the Town's best interests. Proposals will be evaluated and scored on the basis of the following criteria:

A. Experience and Qualifications of the Consultant (maximum 50 points)

Consideration will be given to Consultants demonstrating strong capabilities, experience and reputation in undertakings similar to those described in this RFP. Proposal responses ideally should demonstrate the following:

- Experience with previous LWRP projects;
- Familiarity with Hudson River Waterfront issues including sustainable shorelines, public access, uses and safety, and the inevitable effects of climate change;
- Experience in Town planning with regard to the development, improvement and interconnection of Germantown's Hudson River Waterfront with the hamlet's business district / commercial areas:
- Experience in architecture design and landscape design, specifically with regard to developing public waterfront access, trails, bike paths and rail-with-trail planning;
- Experience with land use planning involving scenic overlay districts, critical environmental areas, scenic areas of statewide significance, and significant coastal fish and wildlife habitat, as well as railroad law, land acquisition and right-of-way issues between municipalities and rail road operators;
- Experience in GIS, mapping and visuals / graphic design;
- Successful project track record, including reputation among previous clients, success rate for staying within allotted time and budget for task and project; and
- Ability to satisfy MWBE requirements.

Please provide documentation / references for experiences and qualifications, preferably connected to projects within the Hudson Valley region and for municipalities of comparable size and nature.

B. Quality of Proposal and Proposal Completion (maximum 50 points)

Proposal responses will be evaluated on completeness, clarity/accuracy of the information requested, and proposal presentation. The ability of the Consultant team to clearly articulate their understanding of the needs of the Town and their capacity to address those needs will also be a factor in the selection process. See Section VI for Proposal Format and Components.

VI. Proposal Format and Components

In order to assist the Town with the evaluation of proposals that are received, each proposal shall use the format described below. All materials submitted in response to this RFP are subject to the terms of State laws relative to freedom of information. Please see the Town's website for regulations, ordinances, maps, information regarding infrastructure, and any other studies relevant to the project: https://www.germantownny.org/.

A. Cover letter

Outline the Consultant's interest in the project with a description of the current workload, to demonstrate capability to undertake the work as required, as well as a Consultant profile including size of firm and length of time in business. A description of the proposed approach to the project including a description of public engagement processes (including references to comparable public engagement processes that the firm/team has conducted) shall be provided.

B. Project Schedule and Details

Please provide a detailed proposed project schedule and budget consistent with the NYSDOS Contract Workplan Tasks, depicting the estimated completion time for each of the work scope items identified in Section II of this RFP – see form in Attachment H for template. Estimated completion time should include time for review of product deliverables. This is especially important for the Draft LWRP, which will need to be reviewed by DOS prior to advancing to 60-day review and completing the final LWRP. Please build in time for review and be available to address substantive comments received from the 60-day review period prior to completing the final LWRP (Task 20).

In addition, please provide a description of the Consultant's proposed approach and the scope of services for each task.

C. Statement of Qualifications

Provide a brief description of the Consultant submitting the proposal, including full business name, legal status (corporate, partnership or sole proprietor), number and type of employees, specialties, and longevity. List similar projects and the specific personnel who worked on them and who are proposed to work on this project. Include each past project's name and client, year completed, dollar amount and telephone number of a contact person at the entity where the work was performed who has direct knowledge of the referenced project. If available, references should include all work on other Local Waterfront Revitalization Programs.

D. Project Team Members (Curriculum Vitae)

List any specialties and or strengths that make the Consultant and the personnel assigned to this project uniquely suited to the task of performing the work as outlined in this RFP. Provide an organizational chart of the employees proposed to work on this project,

including Project Manager who would be assigned to this project and who shall be the Town's main point of contact with the Consultant. This shall include a list of each individual's relevant project experience in regard to the tasks and responsibilities they will perform in this project. Any shared interests among the lead firm and proposed subconsultants must be identified, e.g., parent-subsidiary relationships, joint ventures, formal affiliations.

E. Ability to satisfy MWBE Requirements

Identify how the MWBE goals identified in Section IV of this RFP are proposed to be satisfied. The Applicant shall submit a MWBE Utilization Plan provided as Attachment L to this RFP (Form D).

F. Completed Non-Response form, if applicable

The non-response form is provided in Attachment G.

G. EEO Compliance

Each Consultant submitting a proposal shall execute and attach thereto, an EEO Policy Statement (Form A) provided in Attachment I. If the Consultant already has an EEO policy in effect, a copy of that policy may be submitted in place of Form A.

H. Non-Collusion Certification

Each Consultant submitting a proposal shall execute and attach thereto, an affidavit substantially in the form provided in Attachment J, to the effect that it has not colluded with any other person, firm, or corporation in regard to any proposal submitted.

I. Statement on Sexual Harassment

Each Consultant submitting a proposal shall execute and attach thereto, an affidavit substantially in the form provided in Attachment K, in accordance with New York State Finance Law § 139-1.

VII. Timelines and Due Dates

A. Project Timelines

The Town of Germantown signed contract documents with the NYSDOS on November 11, 2020, approving the agreement to use \$75,000 in State funds to develop an LWRP. The contract period is from August 8, 2020 through July 31, 2025, though the Town aspires to complete the project within 2-3 years.

B. RFP Timelines

RFP Release: February 9, 2021

Deadline for questions: February 26, 2021

Response to questions by: March 5, 2021

Proposal Deadline: March 26, 2021

Evaluation Window: March 26, 2021 - May 11, 2021

Selection Deadline: May 11, 2021

Deadline to notify bidders who were not selected:

June 8, 2021

Anticipated Project Start June 14, 2021

The Town reserves the right to amend the timeline at its discretion.

C. Receipt and Opening of Proposals.

Proposals will be received at the address listed below until 11 a.m. local time on March 26, 2021 at which time they will be publicly opened and read. In accordance with Executive Order 202.11, it is anticipated that in-person attendance at the proposal opening will not be permitted. If in-person attendance is not permitted, the public can view the opening of such proposals via Zoom audio/video technology by accessing the link on germantownny.org by clicking on the "calendar date" or "news." Proposals not physically received by the Town at 11 a.m. on March 26, 2021 will not be considered. All proposals must be submitted in a sealed package to:

Town of Germantown

Re: [consultant's name]

Proposal for LWRP

Attention: Janet Crawford, Administrative Assistant

Germantown Town Hall

50 Palatine Park Road

Germantown, New York 12526

Each bid must be submitted on the prescribed forms. One (1) hard copy original shall be submitted in a sealed envelope or box bearing the name and address of the firm and clearly marked with the Consultant's name and "[consultant's name] Proposal for LWRP." Proposals shall also be emailed, in PDF format, to the Town at: gtownny@valstar.net, cc Germantownwaterfrontcommittee@gmail.com with the subject line "Proposal for LWRP".

Regardless of the award of proposal, no proposal shall be withdrawn for a period of ninety (90) days after the bid opening date without the consent of the Town. Submittal of a proposal indicates acceptance of the conditions contained in this RFP.

The Town reserves the right to accept or reject any and all submissions, and/or waive technical defects, irregularities and omissions, and to award the contract to the firm deemed, in its sole discretion, to be able to perform in the Town's best interests. The Town is an affirmative action-equal opportunity employer in accordance with all applicable local, state and federal requirements and does not discriminate in its hiring. The Town is committed to complying with the Americans with Disabilities Act (ADA).

The award of this proposal is subject to approval by the New York State Department of State and negotiation of a contract, the terms of which are in form and substance satisfactory to the Town, including but not limited to pertinent insurance provisions. The Consultant agrees to execute the contract within fifteen (15) days after receipt and to adhere to the anticipated project start date.

VIII. Questions Regarding Request for Proposals

Questions regarding this RFP should be directed to Jen Crawford, LWRP Committee Chair via email on or before February 26, 2021 at germantownwaterfrontcommittee@gmail.com and copied to Janet Crawford, Administrative Assistant, at gtownny@valstar.net. The Town will not respond to questions submitted orally. Answers to questions that materially change the conditions and specifications of this RFP will be posted on the Town's website by March 5, 2021, as an addendum to this document. Additionally, any Consultants wanting to be sent any addendums or information by email must provide the LWRP Committee Chair with their point of contact email address. Any discussions or documents will be considered non-binding unless incorporated in an addendum to the original. When addenda are issued, the bid opening date may be extended at the discretion of the Town.

IX. Resources and Attachments

- A. Town of Germantown Local Waterfront Revitalization Study, finalized April 2018, available at https://www.germantownny.org/community/local-waterfront-revitalization-committee/
- B. Town of Germantown LWRP Budget (removed, see attachment F)
- C. Town of Germantown LWRP Workplan (removed, see attachment F)
- D. Town of Germantown LWRP Committee List
- E. DOS LWRP Guidance Document link, available at https://www.dos.ny.gov/opd/programs/pdfs/LWRPPreparationGuidanceMarch2019.pdf
- F. Germantown's executed contract with the NYS Department of State
- G. Non-Response form
- H. Scope of Work Schedule
- I. EEO Policy Statement (Form A)

Attachment A

Town of Germantown Local Waterfront Revitalization Study, finalized April 2018

https://www.germantownny.org/community/local-waterfront-revitalization-committee/

Attachment B

Town of Germantown LWRP Budget

Please see attachment F

Attachment C

Town of Germantown LWRP Workplan

Please see attachment F

Town of Germantown, New York

Local Waterfront Revitalization Program (LWRP) Committee Members January 4, 2021

Jennifer Crawford

Professional Engineer
LWRP Committee Chairperson
LWRS Committee, Former Chairperson
Germantown Planning Board, Member
Germantown Hose Company #1, Firefighter
Roe Jan Creek Boat Club, Treasurer

Christina Bohnsack

Germantown Waterfront Advisory Committee, Chairperson Climate Smart Communities Task Force, Chairperson Germantown Parks Commission, Vice President Germantown Garden Club, Member Roe Jan Creek Boat Club, Member

Jan Borchert

Energy and Environmental Permitting Engineer Roe Jan Watershed Community, Member of the Board of Directors Current Hydro, Head of Permitting and Hydro Facility Design

Jo Hills

Germantown Waterfront Advisory Committee, Member Roe Jan Watershed Community, Water Sampling Volunteer Hudson River Historic Boat Restoration and Sailing Society, Secretary Riverside resident, Cheviot area

Barbara Hughey

Land Stewardship Consultant
Town of Milan Conservation Advisory Council, Member
Town of Milan, Former NYSDEC Liason
Governor's Hudson River Greenway Council Ag Committee, Member
County Environmental Management Council, Germantown Representative

Martin Overington

Germantown Riversweep, Co-Organizer Germantown Waterfront Advisory Committee, Member Roe Jan Watershed Community, Water Sampling Volunteer Riverside resident, Lower Main Street area

William Shannon

Author and freelance journalist

Germantown Waterfront Advisory Committee, Member

Germantown Sportsmans Association, Member

Roe Jan Creek Boat Club, Member, former Treasurer, and delegate to the Columbia County Sportsmen's Federation

Germantown History Department Parsonage Grant Committee, Member Camphill Hudson Finance Committee, Member

Karen Targrove

Small Business Owner, Printing

Company has been nationally acknowledged as top 5 companies with least impact on the environment.

Manufacturing plant powered by wind power

Avid international kayaker

Attachment E

DOS LWRP Guidance Document

 $\underline{https://www.dos.ny.gov/opd/programs/pdfs/LWRPPreparationGuidanceMarch2019.pdf}$

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

STATE AGENCY:	BUSINESS UNIT/DEPT ID: DOS01/3800000
NYS Department of State One Commerce Plaza 99 Washington Avenue – Suite 1010 Albany, NY 12231	CONTRACT NUMBER: C1001642 CONTRACT TYPE: ☐ Multi-Year Agreement ☐ Simplified Renewal Agreement ☐ Fixed Term Agreement
CONTRACTOR SFS PAYEE NAME:	TRANSACTION TYPE:
GERMANTOWN TOWN OF	☑ New☐ Renewal☐ Amendment
CONTRACTOR DOS INCORPORATED NAME:	PROJECT NAME:
n/a	Town of Germantown Local Waterfront Revitalization Program
CONTRACTOR IDENTIFICATION NUMBERS:	AGENCY IDENTIFIER:
NYS VENDOR ID Number: 1000002179	19-LWRP-11 (CR)
Federal Tax ID Number: 14-6002194	CFDA NUMBER (Federally Funded Grants Only):
DUNS Number (if applicable): n/a	n/a
CONTRACTOR PRIMARY MAILING ADDRESS:	CONTRACTOR STATUS:
Town of Germantown 50 Palatine Park Road Germantown, NY 12526	 □ For Profit ⋈ Municipality, Code: □ Tribal Nation □ Individual □ Not-for-Profit
CONTRACTOR PAYMENT ADDRESS: ⊠ Check if same as primary mailing address	Charities Registration Number: n/a
CONTRACTOR MAILING ADDRESS ☑ Check if same as primary mailing address	Exemption Status/Code: 3A/02 □ Sectarian Entity

Contract Number: C1001642 Page 1 of 2 Master Contract for Grant – Face Page

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

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FROM:		TO:		FUNDING SOURCES	:
AMEND	ED PERIOD:				
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FOR MU	LTI-YEAR AC	GREEM	IENTS ONLY – (CONTRACT PERIOD A	AND FUNDING AMOUNT:
(Out year	rs represent proj	ected f	funding amounts)		
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☐ Other	•				

Contract Number: C1001642 Page 2 of 2 Master Contract for Grant – Face Page

CONTRACTOR:	STATE AGENCY:
Town of Germantown 50 Palatine Park Road Germantown, MY 12526 By:	NYS Department of State One Commerce Plaza 99 Washington Avenue – Suite 1010 Albany, NY 12231 By:
Robert Beauty Printed Name	LuAnn I. Hart Printed Name
Title: Supervisor	Title: Director of Financial Administration
Date: = 1/10/7222	Date: 12 31 2020
On the / day of / wow / , 20	me known, who being by me duly sworn, did
	Germantown the contractor g instrument; and that he/she-signed his/her name
Supervisor of the Town of Odescribed herein which executed the foregoing thereto as authorized by the contractor name of Odescribed	Germantown the contractor g instrument; and that he/she signed his/her name on the face page of this Master Contract. JOHN J. RUSTICI Notary Public, State of New York Qualified In Columbia County Bed. No. 018U6156010
Supervisor of the Town of Odescribed herein which executed the foregoing thereto as authorized by the contractor name of (Notary)	Germantown , the contractor g instrument; and that he/she-signed his/her name on the face page of this Master Contract. JOHN J. RUSTICI Notary Public, Stale of New York Qualified in Columbia County Req. No. 01RU6156010 Commission Expires Nov. 20, 20 22
Supervisor of the Town of Odescribed herein which executed the foregoing thereto as authorized by the contractor name of (Notary) ATTORNEY GENERAL'S SIGNATURE	Germantown , the contractor g instrument; and that he/she-signed his/her name on the face page of this Master Contract. JOHN J. RUSTICI Notary Public, Stale of New York Qualified in Columbia County Req. No. 01RU6156010 Commission Expires Nov. 20, 20 2 2 3 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5
Supervisor of the Town of Odescribed herein which executed the foregoing thereto as authorized by the contractor name of (Notary) ATTORNEY GENERAL'S SIGNATURE By:	Germantown , the contractor g instrument; and that he/she-signed his/her name on the face page of this Master Contract. JOHN J. RUSTICI Notary Public, Stale of New York Qualified in Columbia County Req. No. 01RU6156010 Commission Expires Nov. 20, 20 2 2 3 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5

Contract Number: #C1001642 Page 1 of 1, Master Contract for Grants - Signature Page

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS

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

WITNESSETH:

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

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

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

STANDARD TERMS AND CONDITIONS

I. GENERAL PROVISIONS

- **A. Executory Clause:** In accordance with Section 41 of the State Finance Law, the State shall have no liability under the Master Contract to the Contractor, or to anyone else, beyond funds appropriated and available for the Master Contract.
- **B. Required Approvals:** In accordance with Section 112 of the State Finance Law (or, if the Master Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Master Contract exceeds \$50,000 (or \$85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Master Contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the AG and OSC.

Budget Changes: An amendment that would result in a transfer of funds among program activities or budget cost categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the AG and OSC where the amount of such modification is, as a portion of the total value of the contract, equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than

five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Attachment D (Payment and Reporting Schedule).

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

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

¹To 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)

forth in Section I.B herein, it shall be subject to the approval of the AG and 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 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.

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.

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:

other reasonably foreseeable circumstance.

- a) Pursuant to State Finance Law §179-t, if the Master Contract is with a not-forprofit 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
- 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) <u>Mutual Consent</u>: The Master Contract may be terminated at any time upon mutual written consent of the State and the Contractor.
- b) <u>Cause</u>: 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) <u>Convenience</u>: The State may terminate the Master Contract in its sole discretion upon thirty (30) calendar days prior written notice.
- e) <u>Lack of Funds</u>: 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) <u>Force Majeure:</u> 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) <u>Service of notice</u>: 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) <u>Quarterly Reimbursement:</u> 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) <u>Monthly Reimbursement:</u> 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) <u>Biannual Reimbursement:</u> 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) <u>Milestone/Performance Reimbursement:</u>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) <u>Fee for Service Reimbursement:</u>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) <u>Rate Based Reimbursement:</u> Payment shall be limited to rate(s) established in the Master Contract. Payment may be requested no more frequently than monthly.
- g) <u>Scheduled Reimbursement:</u>⁷ The State Agency shall generate vouchers at the frequencies and amounts as set forth in Attachment D (Payment and Reporting Schedule), and service reports shall be used to determine funding levels appropriate to the next annual contract period.
- h) <u>Fifth Quarter Payments:</u> 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

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.

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.

- 5. 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.
- 6. 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.
- 7. 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.
- 8. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Master Contract is funded in whole or in part with federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

D. Identifying Information and Privacy Notification:

- 1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number, (ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.
- 2. The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. The personal information is requested by the purchasing unit of the State Agency contracting to purchase the goods or services or lease the real or personal property covered by the Master Contract. This information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York, 12236.

E. Refunds:

- 1. In the event that the Contractor must make a refund to the State for Master Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in Attachment A-1 (Program Specific Terms and Conditions). The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Designated Refund Office at the address specified in Attachment A-1 (Program Specific Terms and Conditions).
- 2. If at the end or termination of the Master Contract, there remains any unexpended balance of the monies advanced under the Master Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45) calendar days of the end or termination of the Master Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.
- **F. Outstanding Amounts Owed to the State:** Prior period overpayments (including, but not limited to, contract advances in excess of actual expenditures) and/or audit recoveries associated with the Contractor may be recouped against future payments made under this Master Contract to Contractor. The recoupment generally begins with the first payment made to the Contractor following identification of the overpayment and/or audit recovery amount. In the event that there are no payments to apply recoveries against, the Contractor shall make payment as provided in Section III(E) (Refunds) herein.

G. Program and Fiscal Reporting Requirements:

- 1. The Contractor shall submit required periodic reports in accordance with the applicable schedule provided in Attachment D (Payment and Reporting Schedule). All required reports or other work products developed pursuant to the Master Contract must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to the State Agency in order for the Contractor to be eligible for payment.
- 2. Consistent with the selected reporting options in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the following applicable provisions:
 - a) If the Expenditure Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with one or more of the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:
 - (i) Narrative/Qualitative Report: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Attachment C (Work Plan). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.
 - (ii) Statistical/Quantitative Report: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting

- Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.)
- (iii) *Expenditure Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.
- (iv) *Final Report*: The Contractor shall submit a final report as required by the Master Contract, not later than the time period listed in Attachment D (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Attachment C (Work Plan).
- (v) Consolidated Fiscal Report (CFR): The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Attachment D (Payment and Reporting Schedule).
- b) If the Performance-Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:
 - (i) *Progress Report*: The Contractor shall provide the State Agency with a written progress report using the forms and formats as provided by the State Agency, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Attachment C (Work Plan). Progress reports shall be submitted in a format prescribed in the Master Contract.
 - (ii) Final Progress Report: Final scheduled payment is due during the time period set forth in Attachment D (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Attachment D (Payment and Reporting Schedule). The State Agency shall complete its audit and notify the Contractor of the results no later than the date set forth in Attachment D (Payment and Reporting Schedule). Payment shall be adjusted by the State Agency to reflect only those services/expenditures that were made in accordance with the Master Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Attachment D (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.
- 3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Attachment D (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Master Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Attachment D (Payment and Reporting Schedule).

H. Notification of Significant Occurrences:

- 1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Contractor agrees to submit to the State Agency within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.
- 2. The Contractor shall immediately notify in writing the program manager assigned to the Master Contract of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Master Contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Contractor; or other matters of a similarly serious nature.

IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

A. Contractor as an Independent Contractor/Employees:

- 1. The State and the Contractor agree that the Contractor is an independent contractor, and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. 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 nondiscrimination 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 womenowned 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 Ouestionnaire 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,

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⁹ Not applicable to not-for-profit entities.

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.

ATTACHMENT A-1 AGENCY AND PROGRAM SPECIFIC TERMS AND CONDITIONS

I. Agency Specific Clauses (revised 4/21/20)

For the purposes of this Agreement, the terms "State" and "Department" are interchangeable, unless the context requires otherwise. In addition, the terms "Agreement" and "Contract" are interchangeable, unless the context requires otherwise.

A. Project Timetable

The Contractor agrees to proceed expeditiously with the Project and to complete the Project in accordance with any timetable associated therewith as set forth in the Work Plan (Attachment C) as well as with the conditions of any applicable permits, administrative orders, or judicial orders and this Agreement.

B. Budget Modifications

Prior DOS written approval, which requires a detailed breakdown and justification, is required for all requests for budget modifications, regardless of the amount of the modification. Additional approvals will be required when modifications exceed thresholds described below.

Any proposed modification to a contract that will result in a transfer of funds among program activities or budget cost categories, but does not affect the amount, consideration, scope or other terms of such contracts must be submitted to DOS for submission to the Office of State Comptroller for approval when:

- 1. The amount of the modification is equal to or greater than ten percent of the total value of the contract for contracts of less than five million dollars; or
- 1. The amount of the modification is equal to or greater than five percent of the total value of the contract for contracts of more than five million dollars.

C. Applicable Terms

In addition to the criteria set forth in IV(E)(1)(b) of the Standard Terms and Conditions, documentation of personal service expenditures shall:

- 1. Be based upon actual work performed;
- 2. Be supported by internal controls that provide a reasonable assurance that the charges are accurate, allowable, and properly allocated; and
- 3. Comply with the Contractor's established accounting policies.

Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

D. License to Use and Reproduce Documents, Intellectual Property and Other Works:

By acceptance of this Agreement, Contractor transfers to the Department a perpetual, transferable nonexclusive license to use, reproduce in any medium, and distribute, for any purpose, any intellectual Contract Number: #C1001642

property or other work purchased, developed or prepared for or in connection with the Project using funding provided pursuant to this Contract, including but not limited to reports, maps, designs, plans, analysis, and documents regardless of the medium in which they are originally produced. Contractor warrants to the Department that it has sufficient title or interest in such works to license pursuant to this Agreement, and further agrees and warrants that it shall not enter into any subcontract or other agreement purporting to limit such title or interest in such works in any manner that may compromise Contractor's ability to provide the aforesaid license to the Department. Such warranties shall survive the termination of this agreement. Contractor agrees to provide the original of each such work, or a copy thereof which is acceptable to the Department, to the Department before payments shall be made under this Agreement.

E. Property

The ownership of all property or intellectual property described herein and purchased, developed or prepared under the terms of this Contract shall reside with the Contractor with a reversionary interest in such property or intellectual property held by the Department, unless otherwise authorized or directed in writing by the Department. Except as otherwise provided in Section II.C.4 of the Standard Terms and Conditions, Contractor shall retain ownership of such property or intellectual property after the term of this Contract so long as such property or intellectual property is used for purposes similar to those contemplated by this Contract. Otherwise, the Contractor shall return such property or intellectual property to the Department at the Contractor's cost and expense, and Contractor's ownership interests, rights and title in such property or intellectual property shall revert to the Department. The ownership of all property purchased with federal funds provided pursuant to this Agreement, however, shall be governed by the terms of applicable federal law and OMB Circulars, including but not limited to 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," as amended.

F. Termination

The Department may terminate the Agreement in accordance with the terms and conditions set forth in the Master Grant Contract section of this Agreement. In addition to other reserved rights it has to terminate this Agreement, the Department may terminate or suspend the Agreement under the following circumstances:

- 1. The Contractor shall complete the project as set forth in this Agreement, and failure to render satisfactory progress or to complete the project to the satisfaction of the State may be deemed an abandonment of the project and may cause the suspension or termination of any obligation of the State. In the event the Contractor should be deemed to have abandoned the project for any reason or cause other than a national emergency or an Act of God, all monies paid to the Contractor by the State and not expended in accordance with this Agreement shall be repaid to the State upon demand. If such monies are not repaid within one year after such demand, the State Comptroller of the State of New York may cause to be withheld from the Contractor any State assistance to which the Contractor would otherwise be entitled in an amount equal to the monies demanded.
- 2. In the event that the Department has provided written notice to the Contractor directing that the Contractor correct any failure to comply with this Agreement, the Department reserves the right to direct that the Contractor suspend all work during a period of time to be determined by the Department. If the Contractor does not correct such failures during the period provided for in the notice, this Agreement shall be deemed to be terminated after expiration of such time period. During any such suspension, the Contractor agrees not to incur any new obligations after receipt of the notice without approval by the Department.

- 3. If the Department determines the Contractor has breached a term of the Agreement and if the Department determines the defect can be remedied, it may, in its sole discretion, issue a written notice providing the Contractor with a minimum of 30 days to correct the defect and the notice may include a prospective termination date. If the Contractor fails to correct the defect or fails to make a good faith effort to do so as determined by the Department to the Department's satisfaction, the Department may terminate the Agreement for cause.
- 4. The Department shall also have the right to postpone or suspend the Agreement or deem it abandoned without this action being a breach of the Agreement. The Department shall provide written notice to the Contractor indicating the Agreement has been postponed, suspended or abandoned. During any postponement, suspension or abandonment the Contractor agrees not to do any work under the Agreement without prior written approval of the Department.
- 5. In the event the Agreement is postponed, suspended, abandoned or terminated, the Department shall make a settlement with the Contractor upon an equitable basis in good faith and under the general compensation principles and rates established in the Agreement by the Department. This settlement shall fix the value of the work which was performed by the Contractor to the Department's satisfaction prior to the postponement, suspension, abandonment or termination of the Agreement.
- 6. Any funds paid to the Contractor by the Department which are not expended under the terms of the Agreement shall be repaid to the Department.

G. Subcontracting Requirements

- 1. Contractor agrees that it shall not enter into any subcontract for the performance of work in furtherance of this Contract with any subcontractor that at the time of contracting: (1) is listed on the New York State Department of Labor's list of companies with which New York State cannot do business (available at https://dbr.labor.state.ny.us/EDList/searchPage.do); (2) is listed as an entity debarred from federal contracts (available at: https://www.sam.gov/portal/public/SAM); or (3) fails compensation and disability possess requisite workers insurance coverage http://www.wcb.ny.gov). In addition, Contractor agrees that it shall immediately suspend or terminate any subcontract entered into for the performance of work in furtherance of this Contract if at any time during the term of such subcontract the subcontractor: (1) is listed on the New York State Department of Labor's list of companies with which New York State cannot do business (available at https://dbr.labor.state.ny.us/EDList/searchPage.do); (2) is listed as an entity debarred from federal contracts (list available at: https://www.sam.gov/portal/public/SAM); or (3) fails to maintain requisite workers compensation or disability insurance coverage (see http://www.wcb.ny.gov). Contractor agrees that any such suspension shall remain in place until the condition giving rise to the suspension is corrected by the subcontractor. The terms of this clause shall be incorporated in any and all subcontracts entered into in furtherance of this Contract.
- 2. The Contractor's use of subcontractors shall not diminish the Contractor's obligations to complete the Work in accordance with the Contract. The Contractor shall control and coordinate the Work of its subcontractors.
- 3. The Contractor shall be responsible for informing its subcontractors of all the terms, conditions and requirements of the Contract Documents including, but not limited to the terms of the Master Grant Contract, any and all Appendices, and any changes made by amendments thereto, and ensuring that any and all subcontracts entered into in furtherance of this Contract conform to and do not conflict with such terms.

- 4. Contractor shall file each and every subcontract entered into in furtherance of this Contract with the Department of State no later than fifteen (15) calendar days following the signing of the subcontract, unless otherwise authorized or directed by the Department of State.
- 5. In addition to the requirements of Section IV.B.2 of the Standard Terms and Conditions, the Department reserves the right to require, upon notice to the Contractor, that, commencing from the date of such notice or a date otherwise specified in such notice, Contractor must obtain written approval from the Department prior to entering into any and all subcontracts valued at or below \$100,000 for the performance of any activities covered by this Contract (as provided for in Attachment C). Contractor agrees to require any proposed subcontractors to timely provide to the Department such information as may be requested by the Department as necessary to assess whether the proposed subcontractor is a responsible entity capable of lawfully and satisfactorily performing the work. In the event the Department invokes this right of prior approval and a request for approval is submitted by Contractor and denied by the Department, Contractor agrees that it shall not enter into the proposed subcontract and that no costs associated with such subcontract shall be allowable under this Contract.

H. Compliance with Procurement Requirements

- 1. All contracts by municipalities for service, labor, and construction involving not more than \$35,000 and purchase contracts involving not more than \$20,000 are subject to the requirements of General Municipal Law \$104-b, which requires such contracts to comply with the procurement policies and procedures of the municipality involved. All such contracts shall be awarded after and in accordance with such municipal procedures, subject to the MWBE requirements as set forth in Section M and any additional requirements imposed by the State as set forth in Attachment C hereof.
- 2. The municipal attorney, chief legal officer or financial administrator of the Contractor shall certify to the Department of State that applicable public bidding procedures of General Municipal Law §103 were followed for all service, labor, and construction contracts involving more than \$35,000 and all purchase contracts involving more than \$20,000. In the case of contracts by municipalities service, labor, and construction contracts involving not more than \$35,000 and purchase contracts involving not more than \$20,000, the municipal attorney, chief legal officer or financial administrator shall certify that the procedures of the municipality established pursuant to General Municipal Law §104-b were fully complied with, in addition to the MWBE requirements as set forth in Section M of this Agreement and any additional requirements imposed by the State as set forth in Attachment C hereof.
- 3. For non-municipal entities such as community-based organizations, the chief legal officer or financial administrator of the Contractor shall certify to the State that alternative proposals and quotations for professional services were secured by use of written requests for proposals through a publicly advertised process satisfactory to meet the MWBE requirements set forth in Section M of this Agreement and to ensure the prudent and economical use of public funds for professional services of maximum quality at reasonable cost.

I. Vendor Responsibility Determinations

1. A Vendor Responsibility Questionnaire and Certification is required for certain contracts. This Questionnaire is designed to provide information to assist the contracting agency in assessing a CONTRACTOR's responsibility, prior to entering into a contract, and must be completed and

submitted electronically or returned with the contract. Contractor is invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the New York State System, the VendRep System Instructions VendRep see available http://osc.state.ny.us/vendrep/index.htm or go directly to the VendRep System online at https://portal.osc.state.ny.us. For direct VendRep System user assistance, the Office of the State Comptroller's Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us. Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Department of State or the Office of the State Comptroller's Help Desk for a copy of the paper form.

2. Contractor hereby acknowledges that the Vendor Responsibility Questionnaire (VRQ), as described in Section IV (N) of the Master Grant Contract, as well as any updated or amended version of the VRQ submitted during the term of this contract, or any contractor responsibility information that may be requested by the Department and submitted during the term of this contract, is made a part of this contract by reference hereto and that any misrepresentation of fact in the information submitted, may result in termination of this contract. During the term of this Contract, any changes in the information provided in the questionnaire shall be disclosed to the Department, in writing, in a timely manner. Failure to make such disclosure may result in a determination of non-responsibility and termination of the contract.

J. State Attorney General Charities Registration

In accordance with the Estates, Powers and Trust Law § 8-1.4 (s), the recipient certifies that it is in compliance with the requirements of Estate, Powers and Trusts Law sections 8-1.4 (d), (f), and (g), regarding organizations which administer property for charitable purposes registering and filing periodic reports (together with the appropriate filing fees) with the New York State Attorney General's Charities Bureau. This certification is a material representation of fact upon which reliance was placed by the Department of State in entering into this Agreement with the Contractor.

The Contractor agrees that it will provide immediate written notice to the Department of State if at any time it learns that this certification was erroneous when made or has become erroneous by reason of changed circumstances.

K. Records Access

The Department shall have the right to conduct progress assessments and review books and records as necessary. The Department shall have the right to conduct an on-site review of the Project and/or books and records of the Contractor prior to, and for reasonable time following, issuance of the final payment. The Department shall be entitled to disallow any cost or expense, and/or terminate or suspend this Agreement, if the Contractor has misrepresented any expenditures or Project activities in its application to the Department, or in this Agreement, or in any progress reports or payment requests made pursuant hereto. The Contractor shall maintain such books and records in a manner so that reports can be produced therefrom in accordance with generally accepted accounting principles. The Contractor shall maintain separate financial books and records for all funds received through the Department pursuant to this Agreement.

L. Notices

Pursuant to Section J of the Master Grant Contract, notice hereunder shall be addressed as follows:

1. Notice to the State

Name: Laurissa Garcia

Title: Contract Management Specialist

Agency/Division: Department of State, Office of Planning and Development

Address: 99 Washington Avenue, Suite 1010

Albany, NY 12231

Telephone Number: 518-486-9540

E-Mail Address: <u>opdcontracts@dos.ny.gov</u>

2. Notice to the Contractor

Name: Robert Beaury Title: Supervisor

Affiliation: Town of Germantown
Address: 50 Palatine Park Road
Germantown, NY 12526

Telephone Number: 518-537-6687

E-Mail Address: <u>supervisor@germantownny.org</u>

M. Limits on Administrative Expenses and Executive Compensation (19 NYCRR Part 144, incorporated herein by reference):

- 1. If Contractor is a "covered provider" within the meaning of 19 NYCRR § 144.3(d) at any time during the life of this Agreement, then during the period when Contractor is such a "covered provider":
 - a. Contractor shall comply with the requirements set forth in 19 NYCRR Part 144, as amended; and
 - b. Contractor's failure to comply with any applicable requirement of 19 NYCRR Part 144, as amended, including but not limited to the restrictions on allowable administrative expenses, the limits on executive compensation, and the reporting requirements, may be deemed a material breach of this Agreement and constitute a sufficient basis for, in the discretion of the Department, termination for cause, suspension for cause, or the reduction of funding provided pursuant to this Agreement.
- 2. Contractor shall include the following provision in any agreement with a subcontractor or agent receiving State funds or State-authorized payments from the Contractor to provide program or administrative services under this Agreement:

[Name of subcontractor/agent] acknowledges that, pursuant to this Agreement, it is receiving "State funds" or "State-authorized payments" originating with, passed through, or approved by the New York State Department of State in order to provide program or administrative services on behalf of [Name of CONTRACTOR]. If at any time during the life of this Agreement [Name of subcontractor/agency] is a "covered provider" within the meaning of Section 144.3(d) of DOS regulations, [Name of subcontractor/agent] shall comply with the terms of 19 NYCRR Part 144, as amended. A failure to comply with 19 NYCRR Part 144, where applicable, may be deemed a

material breach of this Agreement constituting a sufficient basis for suspension or termination for cause. The terms of 19 NYCRR Part 144, as amended, are incorporated herein by reference.

N. Minority and Women Owned Business Participation

Article 15-A of the New York State Executive Law, as amended, authorized the creation of a Division of Minority and Women's Business Development to promote employment and business opportunities on state contracts for minorities and women. This law supersedes any other provision in state law authorizing or requiring an equal employment opportunity program or a program for securing participation by minority and women-owned business enterprises. Under this statute, State agencies are charged with establishing business participation goals for minorities and women. The Department of State administers a Minority and Women-owned Business Enterprises (MWBE) Program as mandated by Article 15-A.

1. General Provisions

- a. The Department of State is required to implement the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations ("NYCRR") 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 of State (the "Agency"), to fully comply and cooperate with the Agency in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for New York State-certified minority and women-owned business enterprises ("MWBEs"). The Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") and other applicable federal, state, and local laws. Contractor agrees that the terms "MWBE," "MBE" and "WBE" as used herein, shall mean those MBE or WBE firms certified as such by the State pursuant to NY Executive Law Article 15-A and listed in the directory of New York State Certified MWBEs found at the following internet address: https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp.
- 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 assessment of liquidated damages pursuant to Section M(7) of this Attachment and such other remedies as are available to the Agency pursuant to the Contract and applicable law.

2. Contract Goals

a. The Department's New York State-certified Minority and Women-owned Business Enterprises ("MWBEs") utilization goal is 30%. For purposes of this Contract, the specific overall MWBE goal and the breakdown between the Minority-owned Business Enterprise ("MBE") and the Women-owned Business Enterprise ("WBE") utilization goals, are set forth in the Attachment B "Budget", based on the current availability of MBEs and WBEs.

- b. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section 2(a) hereof, the Contractor should reference the directory of New York State Certified MWBEs found at the following internet address: https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp.
 - Additionally, the Contractor is encouraged to contact the Division of Minority and Women's Business Development at (212) 803-2414 to discuss additional methods of maximizing participation by MWBEs on the Contract.
- c. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the broker's contract.
 - FOR CONSTRUCTION CONTRACTS The portion of a contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60 percent of the total value of the supplier's contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.
 - d.The Contractor must document "good faith efforts," pursuant to 5 NYCRR §142.8, to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. Such documentation shall include, but not necessarily be limited to:
 - 1) Evidence of outreach to MWBEs;
 - 2) Any responses by MWBEs to the Contractor's outreach;
 - 3) Copies of advertisements for participation by MWBEs in appropriate general circulation, trade, and minority or women-oriented publications;
 - 4) The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the Agency with MWBEs; and,
 - 5) Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for MWBE participation.
- 3. Equal Employment Opportunity ("EEO")
 - a. The provisions of Article 15-A §312 of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.
 - b. In performing the Contract, the Contractor shall:
 - 1) Ensure that each contractor and subcontractor performing work on the Contract 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 Agency within seventy two (72) hours after the date of the notice by Agency to award the Contract to the Contractor.
- 3) If the Contractor, or any of the subcontractors does not have an existing EEO policy statement, the Agency may require the Contractor or subcontractor to adopt a model statement (see Form A Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).
- 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 employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
 - d) The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "e" of this section 3, 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.

c. Form B - Staffing Plan

If the total expenditure of this contract is in excess of \$250,000, the following provision shall apply:

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. The Contractor shall complete the Staffing plan form and submit it as part of their proposal or within a reasonable time, as directed by the Department of State.

d. Form C - Workforce Utilization Report

- 1) The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by the Agency on a monthly basis for construction contracts, and on a quarterly basis for all other contracts, during the term of the Contract.
- 2) Separate forms shall be completed by the Contractor and any subcontractors performing work on the Contract.
- 3) The Contractor shall comply with the provisions of the Human Rights Law, as well as all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and its 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 the Contractor has submitted an MWBE Utilization Plan or shall submit an MWBE Utilization Plan at such time as shall be required by the Department of State through the New York State Contract System ("NYSCS"), which can be viewed at https://ny.newnycontracts.com, provided, however, that the Contractor may arrange to provide such evidence via a non-electronic method to the Department of State, either prior to, or at the time of, the execution of the contract.
- b. The Contractor agrees to adhere to such MWBE Utilization Plan for the performance of the Contract.
- c. The Contractor further agrees that a failure to submit and/or adhere to such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Agency shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is non-responsive.

5. Waivers

- a. If the Contractor, after making good faith efforts, is unable to achieve the MWBE Contract Goals stated herein, the Contractor may submit a request for a waiver through the NYSCS, or a non-electronic method provided by the Agency (use Form E Waiver Request). Such waiver request must be supported by evidence of the Contractor's good faith efforts to achieve the maximum feasible MWBE participation towards the applicable MWBE Contract Goals. If the documentation included with the waiver request is complete, the Agency shall evaluate the request and issue a written notice of approval or denial within twenty (20) business days of receipt.
- b. If the Agency, upon review of the MWBE Utilization Plan, quarterly MWBE Contractor Compliance Reports described in Section 6, or any other relevant information, determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals and no waiver has been issued in regards to such non-compliance, the Agency 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.

The Contractor is required to submit a Quarterly MWBE Contractor Compliance Report (Form F) to the Agency 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.

The Agency may require the Contractor to use the NYSCS to submit utilization plans, record payments to subcontractors and otherwise report compliance with the provisions of Article 15-A of the Executive Law and regulations. Technical assistance can be obtained through the NYSCS website at https://ny.newnycontracts.com by clicking on the "Contact Us & Support" link.

Questions regarding this program should be directed to the Department's Minority and Womenowned Business Program by calling (518) 473-3401. Potential contractors can access the NYS Directory of Certified Minority and Women-owned Business Enterprises on-line through the Empire State Development website at https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp. The Department makes no representation with respect to the availability or capability of any business listed in the Directory.

7. Liquidated Damages - MWBE Participation

- a. Where the Agency determines that the Contractor is not in compliance with the requirements of the Contract and the 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, the Contractor shall be obligated to pay to the Agency 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.
- 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 Agency, the Contractor shall pay such liquidated damages to the Agency within sixty (60) days after they are assessed. Provided, however, that if the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to 5 NYCRR § 142.12, liquidated damages shall be payable only in the event of a determination adverse to the Contractor following the complaint process.

O. Service-Disabled Veteran-Owned Businesses Participation

Article 17-B of the Executive Law, enacted in 2014, authorized the creation of the Division of Service-Disabled Veterans' Business Development to promote participation of Service-Disabled Veteran-Owned Businesses (SDVOBs) in New York State contracting. The Service-Disabled Veteran-Owned Business Act recognizes the veterans' service to and sacrifice for our nation, declares that it is New York State's

public policy to promote and encourage the continuing economic development of service-disabled veteran-owned businesses, and allows eligible Veteran business owners to become certified as a New York State Service-Disabled Veteran-Owned Business (SDVOB), in order to increase their participation in New York State's contracting opportunities. To this effect, the Department of State (DOS) has implemented a Veteran-Owned Businesses (SDVOB) Program, as mandated by Article 17-B.

To comply with the SDVOB Program goals of 6%, the Department of State strongly encourages grantees to make every effort, to the maximum extent possible, to engage certified SDVOBs in the purchasing of commodities, services and technology in the performance of their contracts with the Department. If SDVOB utilization is obtained, a quarterly SDVOB utilization report should be submitted to the Department with information of the utilization percentage achieved during that quarter. Contractor Reporting Forms are found at: https://ogs.ny.gov/Veterans/.

The Division of Service-Disabled Veterans' Business Development (DSDVBD) is housed within the New York State Office of General Services (OGS), and maintains a directory of the NYS Certified SDVOBs. For assistance with engaging SDVOB vendors in your contracts, please contact the Division of Service-Disabled Veterans' Business Development at the following email address:

<u>VeteransDevelopment@ogs.ny.gov</u>, or the DOS Division of Affirmative Action Programs – SDVOB Program at <u>Catherine.Traina@dos.ny.gov</u> or <u>Api.Ohouo@dos.ny.gov</u>. The directory of certified SDVOB vendors can be found at: https://ogs.ny.gov/Veterans/Docs/CertifiedNYS_SDVOB.pdf.

II. Program Specific Clauses (revised 2/1/18)

- A. This Agreement has been entered into pursuant to the following understandings:
 - 1. Title 11 of the Environmental Protection Fund Act provides for State assistance to municipalities for the State share of the cost of approved local waterfront revitalization projects as defined in the Act.
 - 2. The Department of State (Department) is authorized by such Act to evaluate and determine eligibility of applications for funding of projects.
 - 3. Based upon information, representations and certifications contained in Contractor's application for funding, including the Program Work Plan as set forth in Attachment C, the Department has made a determination of eligibility of funding for Contractor's project under such Act.
 - 4. State funds (Funding Amount set forth on the Face Page) for this Project (Attachment C Program Work Plan) are provided pursuant to a reappropriation of funds originally made by Title 11 of the Environmental Protection Fund Act.
 - 5. The Contractor shall request payment and reimbursement of eligible and supportable costs incurred under this Agreement, on an interim basis, and each such payment request will be processed by the Department in accordance with relevant provisions set forth herein, together with the following terms:
 - a. The Department, upon approving each payment request, shall make an interim payment for eligible and supportable costs incurred by the Contractor.
 - b. The final payment request will not be processed by the Department prior to satisfactory completion of the Project.
 - c. The Department can withhold the final 10% of the total amount that may be funded by the State in accordance with this Agreement, until the satisfactory completion of the Project.
 - 6. No liabilities are to be incurred beyond the contract period and no costs will be reimbursed for such liabilities unless: 1) funds have been reappropriated for the Project in the subsequent State fiscal year, 2) the Department determines that it is in the best interest of the Department and the State to provide additional time to complete the Project and 3) an extension agreement is approved in accordance with Section IA. of the Agreement.
 - 7. Subject to the availability of funds, determination by the Department that it is in the best interest of the State, and upon mutual written consent of the parties, the State may provide a no-cost time extension. The parties shall revise or complete the appropriate appendix form(s), which may be subject to approval of the Office of the State Comptroller.
 - 8. The Contractor has demonstrated its ability to finance its share of the Project and has agreed to fund its portion of the cost of the Project.

B. Additional Requirements for Construction Projects

1. Project design, including preparation of final plans and specifications, and supervision of construction shall be undertaken by a qualified architect and/or engineer licensed to practice in the State of New York. The Contractor shall submit final plans and specifications to the Department for its acceptance before initiating construction work or, if the Contractor intends to subcontract for

construction work, before the work is advertised for bidding. No change to project plans may be made without the prior written approval of the Department. The Contractor shall also be responsible for erecting a project sign satisfactory to the Department identifying the Project. The project sign shall remain in place for the useful life of the improvements undertaken pursuant to this Agreement. Upon completion of the Project, the Contractor shall submit to the Department a proper certification from a licensed architect or engineer.

- 2. The State shall make periodic inspections of the project both during its implementation and after its completion to ensure compliance with this Agreement. The Contractor shall allow the State unrestricted access to work during the preparation and progress of the work, and provide for such access and inspection by the State in all construction contracts relating to the project.
- 3. The Contractor shall be responsible for ensuring that the project is designed and constructed in conformance with the Uniform Federal Accessibility Standards (UFAS Appendix A to 41 CRF part 101-19.6), the Americans with Disabilities Act Accessibility Guidelines (ADAAG Appendix A of Title 9 NYCRR). Where there are discrepancies among the sets of standards with regard to a particular design/construction requirement, the one providing for the greatest degree of accommodation for the disabled shall apply.

C. Reports, Documents and Maps

The Contractor shall, where appropriate, identify documents, reports, and maps produced in whole or in part under this Agreement by endorsing on said documents, reports, and maps the following:

"This (document, report, map, etc.) was prepared with funding provided by the New York State Department of State under Title 11 of the Environmental Protection Fund."

D. Contractors Insurance Requirements

- 1. Prior to the commencement of the work, the Contractor shall file with the Department of State, Certificates of Insurance evidencing compliance with all requirements contained in this Agreement. Such certificate shall be of form and substance acceptable to the Department.
- 2. Acceptance and/or approval by the Department does not and shall not be construed to relieve Contractor of any obligations, responsibilities or liabilities under the Agreement.
- 3. All insurance required by the Agreement shall be obtained at the sole cost and expense of the Contractor; shall be maintained with insurance carriers licensed to do business in New York State; shall be primary and non-contributing to any insurance or self insurance maintained by the Department; shall be endorsed to provide written notice be given to the Department, at least thirty (30) days prior to the cancellation, non-renewal, or material alteration of such policies, which notice, evidenced by return receipt of United States Certified Mail which shall be sent to New York State Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, New York 12231-0001; and shall name the People of the State of New York and their directors officers, agents, and employees as additional insureds thereunder.
- 4. The Contractor shall be solely responsible for the payment of all deductibles to which such policies are subject.

- 5. Each insurance carrier must be rated at least "A" Class "VII" in the most recently published Best's Insurance Report. If, during the term of the policy, a carrier's rating falls below "A" Class "VII", the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to the Department and rated at least "A" Class "VII" in the most recently published Best's Insurance Report.
- 6. The Contractor shall cause all insurance to be in full force and effect as of the date of this Agreement and to remain in full force and effect throughout the term of this Agreement and as further required by this Agreement. The Contractor shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect.
- 7. Not less than thirty (30) days prior to the expiration date or renewal date, the Contractor shall supply the Department updated replacement Certificates of Insurance, and amendatory endorsements.
- 8. Unless the Contractor is self-insured, Contractor shall, throughout the term of the Agreement or as otherwise required by this Agreement, obtain and maintain in full force and effect the following insurance with limits not less than those described below and as required by the terms of this Agreement, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies). Where Contractor is self-insured, the Contractor shall provide suitable evidence of such to the Department relating to the risks and coverage amounts as provided hereunder.
 - a. Comprehensive Liability Insurance with a limit of not less than \$1,000,000 each occurrence. Such liability shall be written on the Insurance Service Office's (ISO) occurrence form CG 00 01, or a substitute form providing equivalent coverages and shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury, owners & contractors protective, cross liability coverage, liability assumed in a contract (including the tort liability of another assumed in a contract) and explosion, collapse & underground coverage.
 - 1) If such insurance contains an aggregate limit, it shall apply separately to this location.
 - 2) Products and Completed Operations coverage shall include a provision that coverage will extend for a period of at least twelve (12) months from the date of final completion and acceptance by the owner of all of contractors work.
 - b. Where the Project described in Attachment C includes the construction of any structure or building, a Builder's Risk Policy until the Project is completed and accepted in the amount of the total project cost.
 - c. Workers Compensation, Employers Liability, and Disability Benefits as required by New York State. Workers Compensation Policy shall include the U.S. Longshore & Harbor Workers' Compensation Act endorsement.
 - d. Comprehensive 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.

- e. Commercial Property Insurance covering at a minimum, the perils insured under the ISO Special Clauses of Loss Form (CP 10 30), or a substitute form providing equivalent coverages, for loss or damage to any owned, borrowed, leased or rented capital equipment, tools, including tools of their agents and employees, staging towers and forms, and property of the Department held in their care, custody and/or control.
- f. An Owner's Protective Liability Policy with limits no less than \$1,000,000 in the name of the Contractor.
- 9. Professional consultants retained by the Contractor in connection with the Project shall show evidence of professional liability insurance with limits no less than \$1,000,000.

E. Contractor Property Interest

Contractor warrants that it has fee simple or such other estate or interest in the site of the Project, where the Project is undertaken at a site, including easements and /or rights-of-way sufficient to assure undisturbed use and possession for the purposes of construction and operation for the estimated life of the Project. Contractor further acknowledges that where such project is undertaken on or involves the use of lands for active or passive recreational use, it is a material term of this Agreement that such lands shall be available for such recreational use by the People of the State of New York. Additionally, Contractor shall not limit access or discriminate on the operation of the facilities against any person on the basis of place of residence, race, creed, color, national origin, sex, age, disability or marital status.

F. Date/Time Warranty

- 1. Contractor warrants that product(s) furnished pursuant to this contract shall, when used in accordance with the product documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific products must perform as a package or system, this warranty shall apply to the products as a system.
- 2. Where Contractor is providing ongoing services, including but not limited to: i) consulting, integration, code or data conversion, ii) maintenance or support services, iii) data entry or processing, or iv) contract administration services (e.g. billing, invoicing, claim processing), Contractor warrants that services shall be provided in an accurate and timely manner without interruption, failure or error due to the inaccuracy of Contractor's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting there from, including but not limited to the failure or untimely performance of such services.
- 3. This Date/Time Warranty shall survive beyond termination or expiration of this Contract through: a) ninety (90) days or b) the Contractor's or Product manufacturer/developer's stated date/time warranty term, whichever is longer. Nothing in this warranty statement shall be construed to limit any rights or remedies otherwise available under this Contract for breach of warranty.

G. Fees

The Contractor may charge a reasonable fee for the use of any facility which is part of the project.

- 1. Except for the imposition of a differential fee schedule for non-residents of the municipality in which the project is located, the establishment of any preferential user fee for any person or entity is prohibited. Fees charged to non-residents shall not exceed twice those charged to residents.
- 2. Where there is no charge for residents but a fee is charged to non-residents, non-resident fees cannot exceed fees charged for residents at comparable State or local public facilities.
- 3. Reservation, membership or annual permit systems available to residents must also be available to non-residents and the period of availability must be the same for both residents and non-residents.

H. Alienation

Where the project is undertaken on or involves parklands or public waterfront land, the following additional provisions apply:

- 1. The Contractor shall not at any time sell or convey any facility or any portion of the project acquired or developed pursuant to this Agreement or convert such facility or any portion of the project to other than public park or public waterfront purposes without the express authority of an act of the Legislature, which shall provide for the substitution of other lands of equal fair market value and reasonably equivalent usefulness and location to those to be discontinued, sold or disposed of, and such other requirements as shall be approved by State.
- 2. The Contractor agrees to own a property interest sufficient to maintain and operate the project in perpetuity. The Contractor shall not authorize the operation of the project, or any portion thereof, by any other person, entity, or organization pursuant to any management agreement, lease or other arrangement without first obtaining the written approval of the State.
- I. Requirements for Contract GIS Products (1/17/13)
 - 1. General Map Product Requirements -- The following general cartographic requirements must be adhered to by the Contractor:
 - a. Map Products and Supporting Data -- The Department requires delivery of digital map products, including all associated GIS and/or CAD digital files. Such materials must meet the specifications outlined in this General Map Product Requirements section and the Additional Digital Cartographic File Requirements section. Additionally, finished maps should also be provided in a format suitable for viewing and printing (e.g. PDF). If analog map products are required by the contract, they must meet specifications outlined in this General Map Product Requirements section and the Additional Digital-Ready Map Product Requirements section.
 - b. Deliverable Format -- All digital map and attribute table files must be provided in ESRI Shapefile or Geodatabase file format including all associated metadata on Recordable CD or DVD, external hard drive, via email attachment (preferably in a WinZIP file) or downloadable from an ftp site on the Internet. Alternatively, the digital products may be provided as ArcInfo/GIS coverages or CAD files on the same media types upon approval of the Department. All other digital formats require prior approval of the Department. Coordination with the Department prior to submission of digital media is required to ensure compatibility of the delivered materials.

- c. Documentation -- A data dictionary must be included along with the map files describing file contents and file names, as well as metadata for each file including map projection, horizontal and vertical datums used, coordinate system, RMS accuracy and log sheet, information sources and dates, the map maker and date of preparation, and creation methodology. Data provided under federal funds must be provided in a manner which meets Digital Geospatial Federal Geographic Data Committee Metadata Standard as executed by Executive Order 12906, April 11,1994, "Coordinating Geographic Data Acquisition and Access: the National Spatial Data Infrastructure".
- d. Map Accuracy -- All deliverable map products must conform to National Map Accuracy Standards for horizontal and vertical accuracy as established by the United States Bureau of the Budget, June 10, 1941, revised June 17, 1947. For example, for maps at 1:20,000 or smaller, not more than 10% of the well-defined map points tested must be more than 1/50 inch (0.508 mm) out of correct position. At 1:24,000, this tolerance translates to a required horizontal accuracy of 40 feet. If by prior agreement with the Department the map product does not conform to National Map Accuracy Standards, then a statement of actual map accuracy should be included in the Documentation above. Furthermore, hydrographic surveys and maps should conform to recommended accuracy standard proposed in the joint USGS, NOS, Coastal Mapping Handbook, 1978, Melvin Ellis editor, U.S. Government Printing Office, Appendix 6.
- e. Datums and Coordinate Systems-- All map products should be referenced to the North American Horizontal Datum of 1983 (NAD83) and the National Geodetic Vertical Datum of 1988 (NGVD88). Unless otherwise specified in the RFP, UTM Zone 18 shall be used for data at scales smaller than 1:10,000 and State Plan shall be used for data at 1:10,000 scale and larger.
- 2. Additional Digital Cartographic File Requirements -- The following cartographic construction requirements must be adhered to by the Contractor:
 - a. Edge-matching -- All map sheets must be both visually and coordinate edge-matched with adjacent map sheets. No edge-match tolerance will be allowed. Attributes for splitable features must also be identical.
 - b. Common Boundaries -- All features that share a common boundary, regardless of map layer, must have exactly the same coordinate position of that feature in all common layers.
 - c. Point Duplication -- No duplication of points that occur within a data string is permitted.
 - d. Connectivity -- Where graphic elements visually meet, they must also digitally meet. All confluences of line and polygon data must be exact; "overshoots", "undershoots", "slivers", or "offshoots" are NOT permitted.
 - e. Line Quality -- A high quality cartographic appearance must be achieved. Transitions from straight lines to curvilinear elements must be smooth, with angular inflections at the point of intersection. The digital representation must not contain extraneous data at a non-visible level. There should be no jags, hooks, or zero length segments. Any lines that are straight, or should be straight, should be digitized using only two points that represent the beginning and ending points of the line.
 - f. Polygon Closure -- For area features being digitized, the last coordinate pair must be exactly (mathematically) equal to the first coordinate pair. No line or polygon must cross itself except to

join at an actual confluence. All digitized features across map boundaries must be edited to effect smooth and continuous lines.

- g. Graphic Precision -- Positional coordinates for all digital graphic elements should not be reported to a level of precision greater than one thousandth (.001) of a foot.
- h. Digitizer Accuracy -- The required RMS error for digitizer accuracy must be 0.003 or better for digital map registration.
- 3. Digital-Ready Map Product Requirements -- The following requirements for large scale, non-digital map products must be followed to facilitate the future conversion of the maps to digital map products. All large format, non-digital map products must be provided on stable base material at a scale. The map products must include an index map to all map sheets and thorough descriptions of all the cartographic elements portrayed on the maps.
 - a. Base Map Media -- All maps must be created on mylar or other stable base material.
 - b. Map Scale -- All maps of a similar series should be created using the same base scale. Unless otherwise stated by the Department, all maps should be compiled at 1:24,000. If other map scales are approved by the Department, where possible they will conform to standard map scales such as 1:9600; 1:50,000; 1:75,000; or 1:100,000.
 - c. Map Registration -- The maps must provide a minimum of four (4) corner and four (4) interior ticks tied to USGS/NYSDOT quadrangle Lat/Long or NYTM coordinates. The maps must be geometrically correct and should register when overlaid on the appropriate USGS/NYSDOT quadrangle control ticks.
 - d. Map Title and Legend -- The maps must provide a title and legend block describing the information contained on the maps, and including the Documentation and Datums information requested in the General Map Product Requirements above and the map scale.
 - e. Cartographic Quality -- The quality of all map line work and symbolization must conform to items 1 6 in the map criteria set forth in the Additional Digital Cartographic File Requirements section outlined above.

4. Contract Database Standards

- a. Delivery Media -- All database and tabular files must be provided on digital media as specified above in Deliverable Format.
- b. Software Format -- Database and tabular files can be provided in Oracle, Microsoft Excel or Microsoft Access format. Other formats that are convertible to one of the aforementioned formats may be used with prior approval of the Department.
- c. Geographic Attributes -- Database and tabular files that contain elements with a geographic reference must provide a corresponding data field and a geographic coordinate pair for each feature location.

J. Notice of Public Proceedings

The Contractor agrees to provide the Department with prompt and timely written notice at least two weeks in advance of all public proceedings, including, but not limited to public meetings or hearings, relating to the Project.

K. Environmental Review

- 1. Contractor agrees to provide the Department, in a timely manner, with all documentation, including but not limited to, permit applications, environmental assessments, designs, plans, studies, environmental impact statements, findings, and determinations, relating to the Project.
- 2. Contractor acknowledges that compliance with the State Environmental Quality Review Act is a material term and condition of this Agreement. In no event shall any payments be made under this Agreement until Contractor has provided the Department with appropriate documentation that Contractor has met any requirements imposed on Contractor by the State Environmental Quality Review Act.

ATTACHMENT B-1 - EXPENDITURE BASED BUDGET

Budget Summary:	Local Match		State Funds			Total Budget		
		25%		25%		75%		
A. Salaries	\$	3,750.00	\$	0.00	\$	3,750.00		
B. Travel	\$	0.00	\$	0.00	\$	0.00		
C. Supplies	\$	0.00	\$	0.00	\$	0.00		
D. Equipment	\$	0.00	\$	0.00	\$	0.00		
E. Contractual Services	\$	10,000.00	\$	75,000.00	\$	85,000.00		
F. Other	\$	11,250.00	\$	0.00	\$	11,250.00		
Totals:	\$	25,000.00	\$	75,000.00	\$	100,000.00		

MWBE Goals:		
State funds subject to MWBE goals		\$ 75,000.00
MBE Goal	15%	\$ 11,250.00
WBE Goal	15%	\$ 11,250.00

Budget Detail Page 1 of 1

A. SALARIES (including fringe benefits)	Local Match		State Funds		Total Budget	
Administrative Assistant (Hourly Rate: \$23.00)	\$	2,800.00	\$	0.00	\$	2,800.00
Town Deputy Clerk (Hourly Rate: \$15.00)	\$	400.00	\$	0.00	\$	400.00
Highway Superintendent (Annual Salary: \$59,500.00)	\$	550.00	\$	0.00	\$	550.00
	\$	3,750.00	\$	0.00	\$	3,750,00

B. TRAVEL	Loca	Local Match State Funds			Total Budget		
	\$	0.00	\$	0.00	\$	0.00	

C. SUPPLIES	I	Local Match	State Funds	Total Budget
•	\$	0.00	\$ 0.00	\$ 0.00

D. EQUIPMENT	Local N	Local Match		Local Match State Funds		ate Funds	Tota	Total Budget	
	\$	0.00	\$	0.00	\$	0.00			

E. CONTRACTUAL SERVICES	Local Match		S	tate Funds	T	otal Budget
Professional Planning Services to prepare Local Waterfront Revitalization						
Program	\$	0.00	\$	75,000.00	\$	75,000.00
Subcontractor: To be determined						
Professional legal services for LWRP preparation including review and						
development of local laws, coastal policies, and proposed projects and						
environmental quality review.	\$	10,000.00	\$	0.00	\$	10,000.00
Subcontractor: Whitbeck Benedict & Smith, 436 Union Street, Hudson, NY						
12534						
	\$	10,000.00	\$	75,000.00	\$	85,000.00

F. OTHER	Local Match		State Funds		To	otal Budget
Volunteer services for participation on the waterfront advisory committee,						
guiding the development of the LWRP update and reviewing project-related	\$	8,250.00	\$	0.00	\$	8,250.00
products- \$15/hour						
Donated professional engineering services for the preparation of LWRP						
including project development, providing technical guidance on waterfront	\$	3.000.00	•	0.00	•	3.000.00
advisory committee, facilitating public outreach meetings and reviewing	Ф	3,000.00	Ф	0.00	Ф	3,000.00
project-related products- \$60/hour						
	\$	11,250.00	\$	0.00	\$	11,250.00

ATTACHMENT C - WORK PLAN

Town of Germantown Local Waterfront Revitalization Program

1. Project Description

The Town of Germantown will develop a Local Waterfront Revitalization Program (LWRP) that will express the Town's vision for its waterfront along the Hudson River and the Roeliff Jansen Kill. The LWRP will promote public access and recreational opportunities, identify sustainable approaches to mitigate climate change impacts, stimulate economic development, and plan connections to the Hudson Valley Greenway Water Trail and Empire State Trail.

This project involves the preparation of a Local Waterfront Revitalization Program (LWRP) pursuant to the provisions of New York State Executive Law, Article 42, and 19NYCRR Parts 600-603, for the Town of Germantown. Completion of this project may integrate preparation of a harbor management plan (HMP) as set forth in 19 NYCRR Part 603.3 and further described in guidelines prepared by the Office of Planning and Development.

The Town of Germantown is located on the Hudson River and Roeliff Jansen Kill and has approximately five miles of shoreline. The primary waterfront issues to be addressed by the Town of Germantown in the LWRP have been preliminarily identified as improving and expanding public and recreational access and promoting climate resilience while preserving significant cultural, scenic, historical and natural features within the Town's waterfront area. The Town's LWRP will identify potential projects and actions that articulate a future vision for their waterfront area.

The Town will procure a consultant to undertake the development of its Local Waterfront Revitalization Program. Grant funds to develop the LWRP will be matched by a combination of cash and in-kind services.

2. Project Attribution and Number of Copies

The Contractor must ensure that all materials printed, constructed, and/or produced acknowledge the contributions of the Department to the project. All final and public facing materials must include the Department of State logo and the following acknowledgment:

"This [document, report, map, etc.] was prepared with funding provided by the New York State Department of State under Title 11 of the Environmental Protection Fund."

The contributions of the Department must also be acknowledged in community press releases and other notices issued for the project, including web site postings and other forms of digital distribution. Project press releases and other notices shall be submitted to the Department for review and approval prior to release, to ensure appropriate attribution.

The Contractor must submit to the Department all required products, clearly labeled with the NYS Comptroller's contract number as indicated on the Face Page of this Contract and where applicable, the related task number from this Work Plan.

Unless otherwise specified in the Work Plan tasks, the Contractor shall submit products in the following formats:

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- Draft products: one digital copy of each product must be submitted in Adobe® Acrobat® Portable Document Format (PDF), created using 300 dpi scanning resolution and Microsoft Word, if applicable.
- Final products: one electronic copy of each product must be submitted in PDF, created using 300 dpi scanning resolution and Microsoft Word, if applicable. In addition, one paper copy of each final product (including reports, designs, maps, drawings, and plans) must be submitted.
- Electronic data for all Geographic Information System-based mapping products and associated spatial data must be submitted in either ArcGIS format, or similar product acceptable to the Department, and comply with the requirements for Contract GIS Products. Formal metadata must be provided with all digital GIS data which includes, at minimum, a file summary/abstract, intended use, data, source data, and author information.
- Electronic data for all designs, drawings, and plans must be submitted in the original software that they were created (such as CAD format or other similar product acceptable to the Department), as well as in PDF format.
- Photographs and images must be submitted in JPG format with a minimum resolution of 300 dpi, must be dated and captioned with the location and a brief description of the activity being documented, and include any associated metadata (including the photo's GPS location where available).
- Submit products using a standard naming convention of: [Municipality]_DraftSection[#]_v[#] (for example, Town of Germantown_DraftSection1_v1).

3. Compliance with Procurement Requirements

The municipal attorney, chief legal officer or financial administrator of the municipality shall certify in writing to the Department that applicable provisions of General Municipal Law were fully complied with.

4. Project Components

Draft LWRP sections should be submitted sequentially to the Department for review. Refer to your Introduction to LWRPs email from DOS for further information.

Preparation of the Local Waterfront Revitalization Program (LWRP), including an integrated Harbor Management Plan (HMP), shall, at a minimum, involve the following tasks and provisions:

Task 1: Project Initiation Meeting

The Contractor, the Department, and any partners responsible for managing the project, shall hold an initial meeting to review and agree upon the project scope and schedule, project requirements, roles and responsibilities, the selection process for procuring consultants, involvement by the municipal attorney, State Environmental Quality Review Act (SEQRA) compliance requirements, MWBE requirements, ADA requirements, the number of public meetings and techniques for public involvement proposed for the project, and any other information which would assist in project completion. In addition, the composition of a project advisory committee shall be discussed during the project initiation meeting. The Contractor, or a designated project partner, shall prepare and distribute to all project partners a brief meeting summary clearly indicating the agreements reached at the meeting. Work on subsequent tasks shall not proceed prior to Department approval of the proposed approach as outlined in the meeting summary.

Information on preparing a Local Waterfront Revitalization Program is contained in the Department's guidebooks, "Local Waterfront Revitalization Programs in the Coastal Area: Guidance Manual for Preparing Local Programs" found at:

https://www.dos.ny.gov/opd/programs/pdfs/LWRPPreparationGuidanceMarch2019.pdf

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and "Making the Most of Your Waterfront: Enhancing Waterfronts to Revitalize Communities" found at: https://www.dos.ny.gov/opd/programs/pdfs/Guidebooks/lwrp/LWRP_guidebook.pdf

Products: Project initiation meeting held with appropriate parties. Written meeting summary outlining agreements reached.

Task 2: LWRP Committee

The Contractor shall establish a Local Waterfront Revitalization Program (LWRP) Committee to oversee all aspects of the project in cooperation with municipal officials and the project consultant(s), if applicable. The committee shall be representative of project stakeholders, including representatives of State, county, and municipal agencies with jurisdiction over project activities or the project area, and non-governmental and community-based organizations. A draft list of proposed members shall be circulated to the Department for review and approval prior to establishment of the committee.

Products: Draft and final list of proposed members of project advisory committee. Project advisory committee established.

Task 3: Procurement of Consultant (if applicable)

The Contractor shall draft a Request for Proposals (RFP) or similar instrument, including a complete project description with site conditions, expected final results, a schedule for completion, MWBE requirements, and criteria for selecting a preferred proposal. Consultant services requested shall include all applicable tasks, activities and responsibilities outlined in the "Project Components" section of this work program. To demonstrate good faith actions to achieve MWBE contract participation goals, the Contractor must actively solicit proposals for contracts and subcontracts from qualified State certified MWBEs which can be identified using the NYS Directory of Certified Firms (https://ny.newnycontracts.com/). The Contractor must retain records of the procurement process including direct solicitation to MWBEs and the results thereof and maintain records of actions that its subcontractors have taken toward meeting MWBE contract participation goals.

The Contractor shall submit the RFP or similar instrument to the Department for review and approval prior to release for solicitation of proposals.

Products: Approved RFP or similar instrument released through advertisement in local papers, the New York State Contract Reporter, or other appropriate means. Documentation of procurement including direct solicitation to MWBEs and actions taken toward meeting MWBE contract participation goals.

Task 4: Consultant Selection and Compliance with Local Procurement Requirements

In consultation with the Department, the Contractor and an appropriate review committee shall review all proposals received as a result of the RFP. At a minimum, the following criteria are suggested for use in evaluating consultant responses:

- Quality and completeness of the response.
- Understanding of the proposed scope of work.
- Applicability of proposed alternatives or enhancements to information requested.
- Cost-effectiveness of the proposal.

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- Qualifications and relevant experience with respect to the tasks to be performed.
- Reputation among previous clients.
- Ability to complete all project tasks within the allotted time and budget.
- Ability to satisfy MWBE requirements.

Incomplete proposals that do not address all of the requested components should not be accepted for review and consideration.

The municipal attorney, chief legal officer or financial administrator of the municipality shall certify in writing to the Department that the Contractor fully complied with applicable provisions of General Municipal Law and with local procurement procedures.

The Contractor's procurement record and consultant selection are subject to approval by the Department.

Products: Consultant(s) selected and approved by the Department. Written certification of compliance with procurement procedures.

Task 5: Subcontract Preparation and Execution

The Contractor shall prepare the draft subcontract(s) to conduct project work with the selected consultant(s). The subcontract(s) shall contain a detailed work plan with adequate opportunity for review at appropriate stages of product completion, a payment schedule with payments tied to receipt of products, and project costs. The subcontract(s) shall specify the composition of the entire consultant team, including firm name and area of responsibility, firm expertise, and those professionals from the consultant team or consulting firm that will be directly involved in specific project tasks including how the identified MWBE goals will be satisfied. The Contractor shall submit the draft subcontract(s) to the Department for review of the subcontract work plan for alignment with the appropriate tasks of the work plan as set forth in Attachment C of this contract. The Contractor shall incorporate the Department's comments on the subcontract work plan, or scope of services, prior to execution of the final subcontract(s). The Contractor remains responsible for the legal sufficiency of the subcontract in accordance with the requirements in the Master Grant Contract and Attachment A-1.

Products: Draft and final, executed consultant subcontracts.

Task 6: Project Advisory Committee Meetings

In consultation with the Department, the Contractor shall hold a second project meeting with the consultant(s), and Project Advisory Committee, to review project requirements, roles and responsibilities; identify new information needs and next steps; and transfer any information to the consultant(s) which would assist in completion of the project.

The Project Advisory Committee shall meet regularly over the course of the project to guide project development and review findings and documents. Following each meeting, the consultant(s) or designated committee member shall prepare and distribute a brief meeting summary including attendees, main topics discussed, decisions agreed upon by committee, and action items.

Products: Project Advisory Committee meetings. Written meeting summary of each meeting

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Task 7: Preparation of a Community Outreach Process and Plan

The Contractor or its consultant(s), the LWRP Committee, and other partners as appropriate, shall prepare a method and process to encourage community participation in development and implementation of the LWRP. The outreach plan shall identify key individuals, organizations, and entities to be involved, and shall identify the visioning process and the roles and responsibilities in coordinating the entire outreach process, logistics, and the proposed schedule of public meetings and other public engagement activities such as social media, workshops, charrettes, etc. All public meetings will be advertised in the community through press releases, announcements, individual mailings, digital media, municipal website postings, and any other appropriate means. Meetings and public engagement shall be scheduled in a manner that maximizes attendance and participation from all interested community members. The Contractor and/or its consultant(s) may utilize the Department's Office for New Americans and their Community Navigators to encourage participation from populations who are frequently underrepresented in this process, including immigrants, refugees, and minorities. A summary of each public outreach session will be made available in written form and through other appropriate means, such as website or social media.

The outreach plan shall be submitted to the Department for review and approval.

Product: Approved community outreach plan.

Task 8: Draft Section I - Waterfront Revitalization Area Boundary

The Contractor or its consultant(s) shall prepare a narrative description and map of the waterfront revitalization area which includes surface waters and underwater lands. The waterfront revitalization area should include those portions of the water body within the municipality, as well as adjacent upland which affects the water body through drainage, viewshed, and any other factors. References to the Inventory and Analysis section justifying the inclusion of particular areas should be included in this section if beneficial for increased understanding. The narrative must be accompanied by a boundary map showing the proposed waterfront area, including the Harbor Management Plan boundary. For the New York State Coastal Boundary and other data that may be useful for preparing the LWRP boundary see the Geographic Information Gateway at: http://opdgig.dos.ny.gov/#/map. See Department staff for additional tools and guidance to complete this section.

Draft Section I shall be submitted to the Department for review and approval.

Products: Draft Section I - Waterfront Revitalization Area Boundary, including narrative and map(s).

Task 9: Draft Section II - Inventory and Analysis

A. The Contractor or its consultant(s) shall inventory, describe and map, using desktop resources, existing natural and built resources and conditions within the waterfront revitalization area including the harbor (which includes surface waters and underwater lands). For guidance see: "Local Waterfront Revitalization Programs in the Coastal Area: Guidance Manual for Preparing Local Programs" found at: https://www.dos.ny.gov/opd/programs/pdfs/LWRPPreparationGuidanceMarch2019.pdf and the Inventory and Analysis Checklist. See Department staff for additional tools and guidance to complete this section. In addition, this section must provide a thorough analysis of waterfront issues, opportunities, and constraints to economic development and resource protection needs. This section will provide an assessment of the vulnerable resources and potential risks associated with storms, flooding, and the effects of climate change. The inventory and analysis must be broad enough to ensure consideration of important waterfront resources, problems and opportunities and detailed enough to

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support development of a specific and realistic LWRP. This section should also incorporate the inventory and analysis of the relationship between waterside uses that have the potential for conflict, congestion or competition in support of the Harbor Management Plan.

Topics to be addressed, commensurate with the local conditions, should be addressed in the Inventory and Analysis Checklist, including:

- Community Profile
- Existing Land and Water Uses and Public Access
- Natural Resources
- Flooding and Erosion (Risk and Resiliency)
- Historic and Cultural Resources
- Harbor Management Plan Inventory
- Existing Authorities of Federal, State, Regional, and Local Agencies that have Jurisdiction in the Waterfront Revitalization Area
- Summary of existing Plans, Projects and Initiatives that effect the waterfront area such as the municipal comprehensive plan, All-Hazard Mitigation Plans, watershed management plans, downtown revitalization plans, community resiliency plans.

Draft Section II shall be submitted to the Department for review and approval.

Products: Draft Section II - Inventory and Analysis with accompanying maps to depict the municipality's waterfront area resources, issues, and opportunities. Electronic data for all Geographic Information System-based mapping products submitted in either ArcGIS format, or similar product acceptable to the Department.

B. Read and provide existing local land use laws/ regulations/ ordinances. See the LWRP Preparation Guidance on local laws for additional information.

Product: List of current existing local land use laws/ regulations/ ordinances

Task 10: First Public Information Meeting

Following completion of the initial drafts of Section I - Waterfront Revitalization Area Boundary and Section II - Inventory and Analysis, the Contractor or its consultant(s) shall conduct a public information meeting regarding the identified local waterfront issues and opportunities and solicit public input regarding the completeness and accuracy of Sections I and II.

Products: Public information meeting held. Minutes of the public meeting, including any presentations or handouts.

Task 11: Draft Section III - Local Waterfront Revitalization Program Policies

A. The Contractor or its consultant(s) will receive the State waterfront revitalization policies from DOS staff. Any revisions proposed by the municipality shall be inserted on the provided document as comments or notes and returned to DOS staff.

Proposed revisions should be based on information provided in the Inventory and Analysis. The revised policy explanation may add specific local standards and proposed land and water uses for determining

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consistency with the policies. A full policy analysis shall be performed and matrix prepared to demonstrate how each policy shall be implemented to legally uphold the LWRP.

Product: Draft Section III - Local Waterfront Revitalization Policies with comments or notes

B. Should the municipality propose revisions, a conference call with DOS staff will be required. Once the municipality has reviewed DOS response, they can accept the final changes and submit finished Draft Section III - Local Waterfront Revitalization Policies.

Product: Draft Section III - Local Waterfront Revitalization Policies

C. Review existing local land use laws/ regulations/ ordinances for ability to implement the LWRP and identify any amendments or new laws necessary.

Product: List of laws identified that need to be drafted or amended to implement the LWRP.

Task 12: Draft Section IV - Proposed Land and Water Uses and Proposed Projects

The Contractor or its consultant(s) shall describe and map proposed long-term land and water uses within the waterfront area, and proposed projects necessary to implement the LWRP. The proposed land and water uses of the LWRP translate the Policies into a cohesive, physical plan for the waterfront area. For guidance on what information is necessary to describe a proposed project see Appendix 8 of the LWRP Preparation Guidance found at: https://www.dos.ny.gov/opd/programs/pdfs/LWRPPreparationGuidanceMarch2019.pdf. See Department staff for additional tools and guidance to complete this section.

Draft Section IV shall be submitted to the Department for review and approval.

Products: Draft Section IV - Proposed Land and Water Uses and Proposed Projects accepted by the Contractor and approved by the Department.

Task 13: Second Public Information Meeting

Following completion of the initial draft of Section IV - Proposed Land and Water Uses and Proposed Projects the Contractor or its consultant(s) shall conduct a public information meeting regarding the identified local waterfront issues and opportunities and solicit public input regarding the completeness and accuracy of Section IV.

Products: Public information meeting held. Minutes of the public meeting, including any presentations or handouts.

Task 14: Draft Section V - Techniques for Local Implementation of the Program

The Contractor or its consultant(s) shall describe existing local laws and regulations, as well as any new or amended laws or regulations which are necessary to both improve community resilience and implement the policies, strategies, proposed uses, and projects set forth in the LWRP. Relevant local land use controls may include, but are not limited to the zoning code, subdivision review, site plan review, design standards, stormwater management and flood damage prevention. The Contractor or its consultant(s) shall draft such local laws and regulations as are necessary to implement the LWRP. Full drafts of new or amended (existing) laws and regulations, including a local consistency review law, should be attached as appendices

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to the LWRP. Local laws, regulations and procedures essential to the implementation of the policies and purposes of the LWRP must be in place at the time of approval of the program by the Secretary of State.

The Contractor or its consultant(s) shall also describe other public and private sector actions necessary to implement the LWRP, including actions by federal and state agencies necessary in order to fully implement and advance projects in the waterfront revitalization area. These actions may include approving anchorage and mooring areas prior to designation, designating vessel waste no-discharge zones, dredging or maintaining major navigation channels and basins, constructing or maintaining breakwaters, funding certain studies, or providing technical assistance.

The Contractor or its consultant(s) shall also describe a local management structure for reviewing proposed waterfront projects for consistency with the approved LWRP, and the financial resources required to implement the approved LWRP. Implementation of the LWRP will be a continuing responsibility of the municipality. In preparing its LWRP, the municipality needs to consider the costs of implementing the program and whether the funds needed are, or can be reasonably expected, to be available.

Draft Section V shall be submitted to the Department for review and approval.

Products: Draft Section V - Techniques for Local Implementation of the Program, and ALL drafts of any necessary amendments to existing laws or new local laws, including a local consistency review law.

Task 15: Draft Section VI - Federal and State Actions and Programs Likely to Affect Implementation of the LWRP

The Department shall provide to the Contractor or its consultant(s) a generic list of federal and State agency actions and programs which are to be undertaken in a manner consistent with the LWRP. The Contractor or its consultant(s) shall describe specific federal and State actions necessary to further implementation of the LWRP (technical assistance, funding, procedural changes, etc.).

Draft Section VI shall be submitted to the Department for review and approval.

Products: Draft Section VI - Federal and State Actions and Programs Likely to Affect Implementation of the LWRP.

Task 16: Draft Section VII - Local Commitment and Consultation

Developing local support for the LWRP is the most critical factor determining the success of the program. The Contractor or its consultant(s) shall describe the public consultation efforts undertaken in the preparation of the LWRP, such as public hearings, public informational meetings, and/or meetings with governmental agencies. All activities undertaken to consult and obtain local support and commitment should be thoroughly documented. The Contractor or its consultant(s) shall also describe any local committees created to oversee preparation of the LWRP, as well as the role of other municipal agencies.

Draft Section VII shall be submitted to the Department for review and approval.

Products: Draft Section VII - Local Commitment and Consultation.

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Task 17: Determination of Significance and Compliance with SEQRA

A municipality's preparation and adoption of an LWRP involve compliance with SEQRA. The Contractor shall request designation as Lead Agency for purposes of SEQRA. The Lead Agency shall prepare, distribute and file a Full Environmental Assessment Form for purposes of evaluating the importance/significance of the impacts associated with preparing and adopting a LWRP. Upon completing the Full Environmental Assessment Form, the Lead Agency shall make a Determination of Significance in accordance with the SEQRA regulations. If the Determination of Significance results in a Positive Declaration, the Lead Agency shall prepare a Draft Generic Environmental Impact Statement for the Draft LWRP in accordance with State Environmental Quality Review Act (SEQRA) regulations and guidelines. If the findings of the Determination of Significance are such that the LWRP will not have a significant adverse environmental impact, a Negative Declaration may be prepared and filed. If a Negative Declaration is prepared and filed, then a Draft Generic Environmental Impact Statement will not be necessary and no further actions are necessary under the SEQRA regulations. The Contractor or its consultant(s) shall determine whether a public hearing will be held on the Draft LWRP. Completed SEQRA documents shall be submitted to the Department for review and approval.

Products: Completed Full Environmental Assessment Form and associated SEQRA determination statements (Positive Declaration or Negative Declaration). If the Determination of Significance results in a Positive Declaration, the Lead Agency, with the assistance of the consultant, shall prepare a Draft Generic Environmental Impact Statement for the Draft LWRP in accordance with State Environmental Quality Review Act (SEQRA) regulations and guidelines. If a Draft Generic Environmental Impact Statement is prepared, a public hearing shall be held and the hearing notes should be submitted to the Department.

Task 18: Complete Draft LWRP

The Contractor or its consultant(s) shall submit an electronic copy (Word format with each map as an individual pdf, as well as a GIS shapefile of the LWRP boundary in a format compatible with the Department's Geographic Information Gateway) and up to two (2) paper copies upon request of the complete Draft LWRP document, with integrated harbor management, including a complete Draft Generic Environmental Impact Statement (if one is to be prepared) and new or amended (existing) laws and regulations, incorporating comments provided on each component section, to the Department for approval. If revisions to the complete Draft LWRP are needed, based on Department review, the Contractor or its consultant(s) shall make the required changes and resubmit the document to the Department for review.

All comments and requested revisions must be addressed to the satisfaction of the Department prior to advancing the document to 60-Day Review.

Following acceptance of the complete Draft LWRP document by the Department, the Contractor shall formally accept the Draft LWRP as complete and ready for public review and authorize its submission to the Department for review by potentially affected State, Federal, and local agencies - by resolution of the local municipal legislative body. The Contractor or its consultant(s) shall also provide one (1) hard copy and one electronic copy (formatted in Microsoft Word) of the complete Draft LWRP document to the Department.

Upon receipt of the required number of copies of the Draft LWRP (/Draft Generic Environmental Impact Statement, if applicable), the Department shall initiate a 60-Day Review by State, Federal, and other local agencies concurrent with the SEQRA review (if applicable).

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Products: (1) Draft LWRP acceptable to the Department; (2) GIS shapefile of the LWRP boundary in a format compatible with the Department's Geographic Information Gateway and (3) a resolution of the local municipal legislative body accepting the Draft LWRP as complete and ready to be submitted to DOS for review and initiation of the 60-Day review process.

Task 19: Third Public Information Meeting

Following completion of the Draft LWRP and in conjunction with 60-Day Review and compliance with SEQRA the Contractor or its consultant(s) shall conduct a public information meeting or meetings on the Draft Program.

Products: Public meeting(s) held. Minutes of the public information meeting(s) and identification of changes to be made to the Draft Program as a result of the public meeting submitted to the Department for review and approval.

Task 20: Final LWRP

Following the 60-Day Review period of the Draft LWRP (/Draft Generic Environmental Impact Statement, if applicable), the Department shall meet with the Contractor or its consultant(s) to discuss all 60-Day comments received, determine appropriate responses and revise the LWRP document to reflect each response. All supporting local laws proposed for adoption in conjunction with the adoption of the LWRP, and the Final Environmental Impact Statement (if applicable), shall also be revised as necessary to reflect 60-Day comments and responses, to the satisfaction of the Department.

Additionally, the Contractor and/or its consultant(s) shall also submit to the Department a schedule of adoption of the LWRP and any local laws necessary for implementation of the LWRP.

Products: An electronic copy and up to two (2) paper copies upon request of the Final LWRP and supporting local laws (and Final Environmental Impact Statement, if applicable), along with electronic data for all Geographic Information System-based mapping products submitted in either ArcGIS format, or similar product acceptable to the Department, and schedule of adoption.

Task 21: MWBE Reporting

In accordance with Attachment A-1, Part I, Section M, Paragraph 6, Contractor shall be required to use the New York State Contract System ("NYSCS") to record payments to subcontractors (including a breakdown of payments issued to state-certified MWBE firms) and otherwise report compliance with the provisions of Article 15-A of the Executive Law and regulations in relation to funds used pursuant to this Agreement. Contractor shall be required to submit utilization plans in paper format until such time as submission is made available through the NYSCS and notification of such availability is provided to Contractor by the State. Upon such notification by the Department, Contractor shall submit required utilization plans through the NYSCS. So long as Contractor complies with the reporting requirements stated above in the manner directed by the Department, the requirement of Attachment A-1, Part I, Section M, Paragraph 6 for paper filing of Quarterly Reports shall be waived. Technical assistance for use of the NYSCS system can be obtained through the NYSCS website at https://ny.newnycontracts.com by clicking on the "Contact Us & Support" link.

In the event Contractor does not have the capacity to use the NYSCS in the manner required above, an exception may be granted by the Department of State upon Contractor's written request and showing of

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good cause to allow for paper reporting. If such an exception is granted by the Department of State, paper reporting in a manner and form directed by the Department shall be required including but not limited to the submission of Quarterly MWBE Contractor Compliance Report (Form F) forms in accordance with Section M, Paragraph 6, of Attachment A-1.

Products: Ongoing reporting through NYSCS during the life of the contract.

Task 22: Project Status Reports

The Contractor or its consultant(s) shall submit project status reports semi-annually (every June 30 and December 31) on the form provided, including a description of the work accomplished, the status of all tasks in this work plan, schedule of completion of remaining tasks, and an explanation of any problems encountered.

Products: Completed project status reports submitted to DOS during the life of the contract.

Task 23: Final Project Summary Report and Measurable Results forms

The Contractor or its consultant(s) shall work with the Department project manager to complete the Final Project Summary Report and Measurable Results forms. Final payment shall not be authorized until these forms have been completed and filed with project deliverables.

Products: Completed Final Project Summary Report and Measurable Results forms submitted to DOS.

5. Project Responsibilities

The Contractor shall administer the grant, execute a contract with the Department, and ensure the completion of work in accordance with the approved Work Plan and budget.

The Contractor:

- will be responsible for conducting all project work in conformance with the Work Plan included in the executed contract with the Department.
- will be responsible for all project activities including drafting request for proposals and managing subcontracts with consultants and subconsultants.
- will be responsible for legal review through municipal attorney as necessary
- will certify to the Department that the procurement record for project consultants and subcontractors complies with the applicable provisions of General Municipal Law.
- will receive approval from the Department for any and all consultant subcontracts before beginning project work.
- will be responsible for submission of all products, M/WBE forms, and payment requests including backup documentation.
- will be responsible for coordinating participation and soliciting comments from local government personnel, project volunteers, and the public.
- will keep the Department informed of all-important meetings for the duration of this contract.
- will receive approval from the Department before purchase of any equipment.
- will secure all necessary permits and perform all required environmental reviews.
- will ensure that all materials printed, constructed, and/or produced acknowledge the contributions of the Department to the project.

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- will ensure that all products prepared as a part of this contract shall include the NYS Comptroller's contract # as indicated on the Face Page of this contract.
- will ensure the project objectives are being achieved.
- will ensure that comments received from the Department and the project advisory committee, or other advisory group, are satisfactorily responded to and reflected in subsequent work.
- will recognize that payments made to consultants or subcontractors covering work carried out or products produced prior to receiving approval from the Department will not be reimbursed unless and until the Department finds the work or products to be acceptable.

The Department:

- will review and approve or disapprove of subcontracts between the Contractor and consultant(s) and any other subcontractor(s).
- will participate in project initiation meeting and attend meetings that are important to the project.
- will review all draft and final products and provide comments as necessary to meet the objectives.
- must approve or disapprove any and all design, site plan, and preconstruction documents. Department approval must be obtained before construction may begin.

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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.

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

- 1. The State agency will make an advance payment to the Contractor, during the initial period, in the amount of \$0 (0% of 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: 3/31, 6/30, 9/30, 12/31

☐ Monthly Reimbursement

Due Date:

☐ Biannual Reimbursement Due Date: ____

☐ Fee for Service Reimbursement

Due Date: _____

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□ Rate Based Reim Due Date:	bursement
☐ Fifth Quarter Rei Due Date:	mbursement
	mance Reimbursement equency:
☐ Scheduled Reimb Due Date/Fre	oursement equency:
II. REPORTING PROVISIONS	
A. Expenditure-Based Repor	ts (select the applicable report type):
	ative Report submit, on a quarterly basis, not later than $_$ days from the er, the report described in Section $III(G)(2)(a)(i)$ of the Master
	submit, on a quarterly basis, not later than $__$ days from the report described in Section III(G)(2)(a)(ii) of the
end date for wh	ort submit, on a quarterly basis, not later than 30 days after the ich reimbursement is being claimed, the report described in $o(a)(iii)$ of the Master Contract.
	will submit the final report as described in Section of the Master Contract, no later than <u>60 days</u> after the end of od.
timeframes design the due date sh	cal Report (CFR) ¹ I submit the CFR on an annual basis, in accordance with the gnated in the CFR manual. For New York City contractors, all be May 1 of each year; for Upstate and Long Island due date shall be November 1 of each year.

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¹The 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 <u>60 days</u> after completion of the 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 <u>at project completion</u>. The agency shall complete its audit and notify vendor of the results no later than <u>60 days</u> later. The Contractor shall submit the report not later than <u>60 days</u> 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.

Contract Number: #C1001642

TABLE I – REPORTING SCHEDULE

PROGRESS REPORT	PERIOD COVERED	DUE DATE
Project Status Form	Contract period, as amended	6/30* 12/31*
MWBE Utilization Plan	Contract period, as amended	Within 2 weeks of MWBE hire
MWBE Utilization Report (via NYSCS)	Contract period, as amended	3/31* 6/30* 9/30* 12/31*
MWBE Workforce Utilization Report	Contract period, as amended	3/31* 6/30* 9/30* 12/31*
	*Due every year during the contract period, as amended.	

NON-RESPONSE FORM

SUBMIT BY R	ESPONSE DU	E DATE
PM,	,,	2020

REQUEST FOR PROPOSALS FOR ASSISTANCE WITH LOCAL WATERFRONT REVITALIZATION PROGRAM TOWN OF GERMANTOWN, NEW YORK

To: Town of Germantown
This is to certify that will not be submitting a proposal in response to the above referenced Request for Proposals
REASON(S) FOR NO RESPONSE:
UNAVAILABILITY OF REQUIRED RESOURCES
PRIOR COMMITMENTS
INADEQUATE ANTICIPATED FUNDING LEVEL
PROJECT DURATION
POTENTIAL CONFLICT OF INTEREST
DUPLICATION OF ONGOING EFFORT
OTHER (PLEASE EXPLAIN)
AUTHORIZED REPRESENTATIVE:
Name:
TITLE:
SIGNATURE:
Date:// 20

Task	Description	Dollar Amount	Date of Completion (assuming Week 1 is the date of Contract execution)	Scope Breakdown by Role (Proposed Split between Consultant and Committee (Sub-/)Tasks)
Task 6	Project Meeting	\$		
Task 7	Community Outreach Process and Plan	\$		
Task 8	LWRP – Section I – Waterfront Revitalization Area Boundary	\$		
Task 9	LWRP – Section II – Inventory and Analysis	\$		
Task 10	First Public Information Meeting	\$		
Task 11	LWRP – Section III – Local Waterfront Revitalization Policies	\$		
Task 12	LWRP – Section IV – Proposed Land and Water Uses and Proposed Projects	\$		
Task 13	Second Public Information Meeting	\$		
Task 14	LWRP – Section V – Techniques for Local	\$		

RFP Attachment H – Scope of Work Schedule

	Implementation of the Program		
Task 15	LWRP – Section VI – Federal and State Actions and Programs Likely to Affect Implementation of the LWRP	\$	
Task 16	LWRP – Section VII – Local Commitment and Consultation	\$	
Task 17	LWRP – Section VIII – Determination of Significance and Compliance with SEQRA	\$ (EAF) \$ (GEIS)	
Task 18	Complete Draft LWRP	\$	
Task 19	Third Public Information Meeting	\$	
Task 20	Final LWRP Amendment	\$	
Task 21	MWBE Reporting	\$	
Task 22	Project Status Reports	\$	

RFP Attachment H – Scope of Work Schedule

Task	Final Project	\$	
23	Summary Report		
	and Measurable		
	Results forms		

Note: There will be no allowance for reimbursable expenses. All costs, including copying, should be included in the tasks above.

FORM A MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

M/WBE AND EEO POLICY STATEMENT

_	ee to adopt the following policies with respect to t Town of Germantown:	, the he project being developed or services rendered at
faith act by the located, (1) (2) (3) (4)	This organization will and will cause its contractors and subcontractors to take good ions to achieve the M/WBE contract participations goals set State for that area in which the State-funded project is by taking the following steps: Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations. Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly. Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs. Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation. Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals. Ensure that progress payments to M/WBEs are made on at timely basis so that undue financial hardship is avoided and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.	age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members 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 on state contracts. (b)This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status. (c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized 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 this organization's obligations herein. (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,
	greed to this day of y:	
	rint:	Title:

me of Designated Liaison)	is designated as the Minority Business Enterprise Liaison
,	nd Women-Owned Business Enterprises- Equal Employment
M/WBE Contract Goals	
30.00% Minority and Women's Busines	ss Enterprise Participation
15.00% Minority Business Enterprise F	Participation
15.00% Women's Business Enterprise	Participation
EEO Contract Goals	
% Minority Labor Force Parti	icipation
% Female Labor Force Partic	icipation
(Authorized Representative)	
Title:	
Date:	

Non-collusive bidding certification New York State Finance Law § 139-d

STATE OF)
COUNTY OF) SS.:)
certifies, and in the case of a joi	, being first duly sworn, deposes and says that: each bidder and each person signing on behalf of any bidder t bid each party thereto certifies as to its own organization, the best of his knowledge and belief:
communication, or agreement, f	en arrived at independently without collusion, consultation, or the purpose of restricting competition, as to any matter ther bidder or with any competitor;
been knowingly disclosed by the	law, the prices which have been quoted in this bid have not bidder and will not knowingly be disclosed by the bidder prior to any other bidder or to any competitor; and
	will be made by the bidder to induce any other person, mit or not to submit a bid for the purpose of restricting
above have not been complied was make the foregoing certification statement which sets forth in de been complied with, the bid sha unless the head of the purchasin	for award nor shall any award be made where (a)(1)(2) and (3) ith; provided however, that if in any case the bidder cannot the bidder shall so state and shall furnish with the bid a signed all the reasons therefor. Where (a)(1)(2) and (3) above have not not be considered for award nor shall any award be made unit of the state, public department or agency to which the bid nes that such disclosure was not made for the purpose of
corporate bidder for work or ser where competitive bidding is re- the certification referred to in su authorized by the board of direc	Town or any public department, agency or official thereof by a rices performed or to be performed or goods sold or to be sold, uired by statute, rule or regulation, and where such bid contains edivision one of this section, shall be deemed to have been ors of the bidder, and such authorization shall be deemed to on of the bid and the inclusion therein of the certificate as to of the corporation.
Consultant Name:	
Authorized Person:(Print/Ty	Signature:

Title:	Date:	
Subscribed and sworn before me this	day of	, 20
Notary Public My commission expires: [affix stamp]		

STATEMENT ON SEXUAL HARASSMENT New York State Finance Law § 139-1

STATE OF)			
COUNTY OF) SS.:)	:		
		_, being first duly	sworn, deposes and says that:	
certifies, and in the case of	a joint proposal at the firm has a on in the workp its employees.	l each party thereto and has implement place and provides Such policy shall	, at a minimum, meet the	on
not complied with the abov	e certification; ¡ n firm shall so s	provided, however state and shall furn	award be made to a firm who has r, that if the firm cannot make the iish with the proposal a signed	
by a corporate firm for work sold, where such proposal cauthorized by the Board of	k or services peontains the abornized of the mission of the p	erformed or to be pove certification, she firm and such aut	partment, agency or official there performed or goods sold or to be nall be deemed to have been thorization shall be deemed to neclusion therein of such statement	
Consultant Name:				
Authorized Person:(Prin	nt/Type)	Signatu	lre:	
Title:		Date: _		
Subscribed and sworn before	e me this	day of		
Notary Public My commission expires: [affix stamp]				

FORM D - M/WBE UTILIZATION PLAN

This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (M/WBE) under the contract. Attach additional sheets if necessary. INSTRUCTIONS:

Offeror's Name: Town of Germantown

Address: 50 Palatine Park Road

City, State, Zip Code: Germantown, NY 12526 Telephone No.: 518-537-6687

Project/Contract No.: C1001642 Federal Identification No.: 14-6002194

M/WBE Goals in the Contract: MBE 15.00% WBE 15.00%

Region/Location of Work: CR				5 Dollar Value of Subcontracts/
Certified M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	Supplies/Services and intended performance dates of each component of the contract.
A.	NYS ESD			
	CERTIFIED			
	☐ MBE			
	☐ WBE			
B.	NYS ESD			
	CERTIFIED			
	☐ MBE			
	□ WBE			
Ċ.	NYS ESD			
	CERTIFIED			
	☐ MBE			
	☐ WBE			
D.	NYS ESD			
	CERTIFIED			
	☐ MBE			
	□ WBE			
ші	NYS ESD			
	CERTIFIED			
	☐ MBE			
	□ WBE			
	_			

	FORTH IN THE CONTRACT, OFFEROR MUST SUBMIT A REQUEST FOR WAIVER FORM E. TELEPHONE NO.: EMAIL ADDRESS:	FOR M/WBE USE ONLY REVIEWED BY: DATE:	UTILIZATION PLAN APPROVED: \Begin{array}{ c c c c c c c c c c c c c c c c c c c
F. CERTIFIED CERTIFIED □ MBE □ WBE	6. IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT PREPARED BY (Signature):	DATE:	NAME AND TITLE OF PREPARER (Print or Type): SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15- A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.