

**Request for Proposals  
for Planning, Meeting Facilitation, Feasibility and Cost Estimation Services  
for the Bronx River Watershed Management Plan Update**

Issued by: Bronx River Alliance, Incorporated  
1 Bronx River Parkway  
Bronx, New York 10462

Date issued: June 29, 2022

Proposal Submission Deadline: July 11, 2022 at midnight

Maximum Award Amount: \$90,000

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## I. Project Description with Site Conditions

### A. Intent, Purpose and Background

Under a grant agreement with the New York State Department of State (“NYS DOS”) executed January 13, 2020 (the “Master Contract”), the County of Westchester (the “County”) will update the Bronx River Intermunicipal Watershed Management Plan (the “Watershed Plan”). (See Schedule “A” to Attachment A).

Under an agreement with the County dated March 2, 2022 (“County Agreement”), Bronx River Alliance, Incorporated (the “Contractor”) agreed to undertake a planning process to update the December 2010 Bronx River Watershed Plan to the Bronx River and a new list of priority projects. (See Attachment A for the County Agreement). In addition, Westchester County is to include a new Climate Resiliency Strategy to be appended to the original plan.

The 2010 Bronx River Watershed Plan builds on the County’s 2007 Bronx River Watershed Assessment and Management Report and the Contractor’s 2006 Ecological Restoration and Management Plan to present strategies, based on objectives and approaches identified in those earlier planning initiatives, to develop an integrated framework aimed at meeting broad watershed goals. (See Attachment B for the complete Bronx River Watershed Plan).

The project involves developing a multi-jurisdictional planning process to update the Bronx River Watershed Plan incorporating a climate resilience strategy (the “Project”).

The Contractor hereby issues a Request for Proposals (“RFP”) to procure a consultant (the “Consultant”) to lead community meetings in Bronx River communities, assess priority community concerns, integrate scientific data and work the Bronx River Advisory Committee to develop an update of priority projects for the Bronx River Intermunicipal Water Plan, along with initial feasibility assessments and cost estimates. The Consultant will also develop the Bronx River Climate Resiliency Strategy. All activities will be conducted with the funding provided under the Master Contract.

### B. Site Conditions

The updated Bronx River Watershed Plan will cover the entire Bronx River Watershed, which encompasses a drainage area of more than 56 square miles flowing southward for 23 miles from Valhalla, NY and emptying into the East River, a tributary of Long Island Sound. The Bronx River Watershed includes two slivers of Fairfield County in Connecticut and fifteen municipalities in New York, including Bronx County in New York City.

The New York State Department of Environmental Conservation (“NYS DEC”) rates the Bronx River Watershed as a Category I watershed, which means it does not meet clean water and other natural resource goals. All sections of the Bronx River are listed on NYS DEC’s Final 2018 Section 303(d) list

of priority waterbodies for dissolved oxygen, floatable litter and fecal pathogens. Regulations require the development of acceptable total maximum daily loads (TMDL) for pollution to achieve sufficient reduction of pollutant load from point and nonpoint sources in order to support designated uses, such as swimming, boating, and fishing. A TMDL has not yet been completed for the Bronx River. The DEC classifies the uppermost reach within Westchester County (NY-1702-0107) as Class C for oxygen demand and fecal coliform, which indicates that it is safe for its intended use of primary and secondary contact; the middle freshwater Bronx River (NY-1702-0106) as Class B for fecal coliform and garbage and refuse; and the lower tidal portion (Section 1702-0006) as Class I oxygen demand and fecal coliform, which indicates that it is safe only for fishing and secondary contact.

**C. Schedule for Completion**

The Project's expected completion date is August 30, 2023.

Please see Attachment C (*Project Status Form*) for the most updated project status.

**II. Project Components**

**A. Description**

This RFP seeks proposals for professional planning services on [Tasks 7, 8, 10 through 13, 15 and 16] in the Work Plan (the "Work Plan Tasks"), a copy of which is attached as Attachment C: (*Work Plan*) within Attachment A - County Agreement.

**B. Roles of the [County,] Contractor and Consultant**

The County, Contractor and the Consultant will work together to ensure the best possible outcome of the Project with a limited budget of no more than \$90,000

The County will provide liaison assistance with the funding provider (NY State Department of State) and will submit reports and payment requests. The County will participate in the kick-off meeting, public meetings and Advisory Committee meetings. In addition, the County will review and provide comments on the Draft Watershed Plan.

The Contractor will work directly with the Consultant to plan public meetings and review feedback (from public meetings and Bronx River Advisory Committee). The Contractor will be responsible for conducting community outreach for the public meetings. The Contractor may also build on a public survey of community environmental concerns that was conducted in 2019 with another community survey. In addition, the Contractor will coordinate closely with the Consultant on drafting the list of priority projects and finalizing that list with a feasibility analysis and cost estimates.

The Natural Areas Conservancy will conduct an invasive species assessment of the Bronx River Corridor in Westchester County as a complement to their invasive species mapping along the river

in the Bronx.

The Consultant will lead public meetings to elicit feedback and priorities for Bronx River communities regarding the river. The Consultant will provide any necessary language translation for public meetings, surveys, and outreach materials. The Consultant will use information received through public meetings to formulate a list of priority projects, and complete a feasibility analysis and cost estimates of priority projects (updating Table 12 from the 2010 Plan). Consultant will also develop a Climate Resiliency Strategy for the updated Watershed Plan addressing the impacts of climate change on the Bronx River and mitigation strategies.

### **C. Performance Measures**

The success of deliverables identified in application and subsequent contract (the "Consultant Contract") will be dependent on NYS DOS approval. The selected Consultant and the Consultant Contract must comply with all applicable terms and conditions of the Master Contract, which is the County's contract with the NYS DOS for this work (Contract No. C1001357), a copy of which is attached as Schedule "A" to Attachment A.

The Consultant Contract must contain provisions specifying (i) that the work performed by the Consultant must be in accordance with the terms of the Master Contract, (ii) that nothing contained in the Consultant Contract shall impair the rights of the State under the Master Contract, and (iii) that nothing contained in the Consultant Contract, nor under the Master Contract, shall be deemed to create any contractual relationship between the Consultant and the State.

In addition, the Consultant Contract shall contain any other provisions which are required to be included in subcontracts pursuant to the terms of the Master Contract and the Contractor Contract.

### **III. Budget**

This RFP has a maximum budget of \$90,000, subject to NYS DOS approval, for a term ending August 30, 2023. Budgets shall be considered as not-to-exceed amounts.

The Consultant will be required to submit all financial claims for services or work rendered and required supporting documentation and reports to NYS DOS, as set forth in Section III (*Payment and Reporting*) of the Master Contract.

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

The Contractor shall actively solicit proposals for contracts and subcontracts from qualified state-certified MWBEs, which can be identified using the New York State Directory of Certified Firms. (See Directory of Certified Firms, available at <https://ny.newnycontracts.com/>). The Contractor 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 New York State Executive Law 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. The minority-owned business goal is \$13,500 and the women-owned business goal is \$13,500.

## V. Evaluation criteria

The Contractor will award the contract to the Consultant deemed, in its sole discretion, to be the most qualified and in the best interest of the Contractor. 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 should demonstrate the following:

- i. Experience with previous watershed planning projects, particularly in an urban context, that include public input, feasibility analysis and cost estimates;
- ii. Quality and completeness of the response;
- iii. Understanding of the proposed scope of work;
- iv. Applicability of proposed alternatives or enhancements to information requested;
- v. Cost-effectiveness of the proposal;
- vi. Qualifications and relevant experience with respect to the tasks to be performed;
- vii. Expertise in issues facing the Bronx River including sustainable shorelines, public access and uses, safety, hydrology, invasive species, sewer and stormwater infrastructure, water quality, habitat, sedimentation, and the impacts of climate change on an urban river;
- viii. Proven track record of leading public meetings to engage residents and gather feedback on priority issues. Ability to provide translation services and other communications methods to reach and engage diverse communities.
- ix. Successful project track record, including reputation among previous clients, success rate for staying within allotted time and budget for task and project; and
- x. EEO Compliance and ability to satisfy MWBE requirements.

Please provide documentation / references for experiences and qualifications, preferably connected to projects within the greater New York City region and for projects of comparable size

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

**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 watershed communities 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 Contractor with the evaluation of proposals that are received, each proposal shall use the format described below. All materials submitted in response to this RFP may be subject to the terms of New York state laws relative to freedom of information.

**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 Work Plan Tasks, depicting the estimated completion time for each of the work scope items identified in Section II of this RFP. Estimated completion time should include time for review of product deliverables. 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.

**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 Contractor's main point of contact with the Consultant. Please include the amount of time firm Principals will spend on this project. 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.

Sub-consultants, sub-contracting and/or joint ventures are permitted. Any shared interests among the lead firm and proposed sub-consultants must be identified, e.g., parent-subsidiary relationships, joint ventures, formal affiliations.

Because the Consultant will receive "State funds" or "State-authorized payments" originating with, passed through, or approved by NYS DOS in order to provide program or administrative services on behalf of the Contractor, if at any time during the life of the Consultant's contract, the Consultant is a "covered provider" within the meaning of Section 144.3(d) of DOS regulations, the Consultant must 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 the Master Contract constituting a sufficient basis for suspension or termination for cause. The terms of 19 NYCRR Part 144, as amended, will be incorporated into the Consultant Contract by reference.

**E. Non-Collusion Certification**

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

**F. EEO Compliance**

Each applicant shall execute and attach to its proposal an EEO Policy Statement in the form provided in Attachment E. If the Consultant already has an EEO policy in effect, a copy of that policy may be submitted instead.

**G. Statement on Sexual Harassment**

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

**H. Ability to Satisfy MWBE Requirements**

Identify how the MWBE goals identified in Section IV of this RFP are proposed to be satisfied (or if a waiver will be requested). The applicant shall submit drafts of (i) the Workforce Utilization Report in the form provided as Attachment G and (ii) the MWBE Utilization Plan in the form provided as Attachment H.



**I. Additional Requirements for Construction Projects**

Not applicable.

**J. Contractor Insurance Requirements and Indemnification**

Consultant agrees to procure and maintain insurance naming the County and Contractor as additional insured and to show evidence of professional liability insurance with limits no less than \$1,000,000.

The Consultant also agrees:

- i. that except for any amount of damage contributed by the sole negligence of the County and/or the Contractor, the Consultant shall indemnify and hold harmless the County and Contractor, its officers, employees, agents, and elected officials from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform hereunder or under the Consultant Contract by the Consultant or third parties under the direction or control of the Consultant;
- ii. to defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of the agreement between the County and the Contractor or the agreement between Contractor and Consultant and to bear all other costs and expenses related thereto; and
- iii. in the event the Consultant does not provide the above defense and indemnification to the County and/or Contractor, and such refusal or denial to provide the above defense and indemnification is found to be in breach of this provision, then the Consultant shall reimburse the County and/or Contractor's reasonable attorney's fees incurred in connection with the defense of any action, and in connection with enforcing this provision.

**VII. Timelines and Due Dates**

**A. RFP Timelines**

RFP Release: June 24, 2022

Proposal Deadline: July 25, 2022

***Proposals not received by midnight on July 25, 2022 will not be considered.***

Evaluation Window: July 19 - August 1, 2022

Selection Deadline: August 8, 2022

Deadline to notify bidders who were not selected: August 15, 2022

Anticipated Project Start: August 22, 2022

All proposals must be submitted to:

Christian Murphy, Ecology Coordinator

christian.murphy@bronxriver.org

Each bid must be submitted as one PDF document.

**NYS DOS may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. The Contractor reserves the right to amend the timeline and bid requirements at its discretion.**

## VIII. Miscellaneous

### A. Rights Reserved

The Contractor reserves the following rights:

- iv. to accept or reject any or all proposals;
- v. to waive or modify minor irregularities in proposals received;
- vi. to negotiate with proposers, within the proposal requirements, to best serve the interests of the Contractor and the NYS DOS;
- vii. to amend specifications after their release, with due notice given to all bidders, to modify their proposals to reflect changed specifications;
- viii. to consider every offer as firm and not revocable for a period of [sixty (60)] days unless withdrawn in writing or otherwise specified in the solicitation;
- ix. to retain records and data as it deems necessary and appropriate; and
- x. to award a contract for any or all parts of a proposal and negotiate with the successful bidder.

### B. Confidentiality

Other than as provided in the Consultant Contract, the Contractor will not provide the Consultant with any proprietary information and is under no obligation to protect any confidential or proprietary information provided by the Consultant in its proposal or otherwise.

### C. Intellectual Property

The Consultant Contract will provide that any intellectual property created by the Consultant for any purpose in connection with this RFP or the Project shall belong to the Contractor.

This RFP does not, and the Consultant Contract will not, entitle the Consultant to use intellectual property belonging to the Contractor for any purpose.

The Contractor will not use the Consultant's name, logo, emblem, and/or trademark without the prior written approval of the Consultant.

**D. Conditions Governing Proposals**

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

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

The award of this proposal is subject to approval by the NYS DOS and negotiation of a professional services contract, the terms of which are in form and substance satisfactory to the Contractor, 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.

The selection and retention of the Consultant will be contingent upon the availability of the proposed key staff, unless substitutes are approved by the Contractor during negotiations.

The Consultant Contract shall attach a copy of the County Agreement and shall expressly reference the Consultant's duty to comply with the material terms and conditions thereof. The owner and/or chief executive or a duly authorized representative of the Consultant shall provide a written acknowledgement that the Consultant is familiar with and agrees to the material terms and conditions thereof and shall agree to provide all relevant books, records, documents or electronic data of the Consultant necessary to review the Consultant's compliance with the material terms and conditions of the County Agreement.

Because the Contractor will receive funds payable on a reimbursement basis for actual work performed and invoiced in accordance with the Master Contract and the County Agreement, the Consultant agrees that the payment of funds by the Contractor is contingent upon the Contractor receiving such funds from the State of New York under the County Agreement. No payment shall be made by the Contractor for out-of-pocket expenses or disbursements made in connection with the services rendered or the work to be performed under the Consultant Contract.

**E. Additional Questions**

The Contractor will not respond to questions. Information obtained from any other source is not official and should not be relied upon. Answers to questions that materially change the conditions and specifications of this RFP will be posted to the Bronx River Alliance's website: [www.bronxriver.org](http://www.bronxriver.org).

IX. Attachments

**A. Agreement Between Westchester County and Bronx River Alliance (executed March 22, 2022)**

Schedule A: Grant Agreement with Work Plan and Budget

Attachment A-1: Program-Specific Terms and Conditions

Attachment B-1: Expenditure-Based Budget

Attachment C: Work Plan

Attachment D: Payment and Reporting Schedule

Schedule B: NYS DOS Contracting Reporting Requirements

Schedule C: Standard Insurance Provisions

Schedule D: Questionnaire Regarding Business Enterprises Owned and Controlled by Women or Persons of Color

Schedule E: Required Disclosure of Relationships to County

Schedule F: Criminal Background Disclosure Instructions

Schedule G: Certification Regarding Business Dealings with Northern Ireland

Schedule H: Questionnaire Regarding Business Enterprises Owned and Controlled by Service-Disabled Veterans

Schedule I: Westchester County Vendor Direct Program Frequently Asked Questions

**ATTACHMENT A**

**AGREEMENT**

THIS AGREEMENT made the <sup>17<sup>th</sup></sup> day of MARCH, 2022 by and between

**THE COUNTY OF WESTCHESTER**, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 (hereinafter the “County”)

and

**BRONX RIVER ALLIANCE, INCORPORATED**, a not-for-profit corporation of the State of New York having an office and place of business at 1 Bronx River Parkway, Bronx, New York 10462 (hereinafter the “Contractor”)

**WHEREAS**, on or about January 5, 2021, the County entered into a grant agreement with the New York State Department of State (“NYS DOS”) for the Bronx River Watershed Management Plan Update grant (Contract No. C1001357) (the “Grant”) in the amount of \$245,428.00 for a term commencing on September 1, 2018 and continuing through August 30, 2023 (“Grant Agreement”); and

**WHEREAS**, the Contractor was designated in the Grant Agreement to implement the work plan in order to develop a Bronx River Watershed Management Plan Update in collaboration with the County as detailed in Attachment “C” to the Grant Agreement; and

**WHEREAS**, the Contractor has agreed to implement the work plan in accordance with all of the terms and conditions contained in this Agreement and the terms and conditions contained in the Grant Agreement.

**NOW, THEREFORE**, in consideration of the premises and covenants herein, the County and the Contractor agree as follows:

**FIRST**: The Contractor shall provide the work (the “Work”) to develop a Bronx River Watershed Management Plan Update as detailed in the Grant Agreement and Contract Reporting Requirements attached hereto and made a part hereof as Schedule “A” and Schedule “B”, respectively, including but not limited to, all of the tasks, reporting requirements, invoice

information, and final deliverables contained in the Grant Agreement. The Contractor represents to the County that it is fully familiar with and shall comply with all of the terms and conditions of the Grant Agreement. The County agrees to provide the appropriate staff, when available, to assist with the Work, including deliverables, and to attend and participate in organizational, project and outreach meetings. The County further agrees to review the deliverables, required reports and invoices prepared by the Contractor and to submit these to the NYS DOS in a timely manner.

**SECOND:** The term of this Agreement shall commence upon execution and shall continue through and expire on December 31, 2022, unless terminated earlier pursuant to the provisions of this Agreement.

The County recognizes that the proposed work plan prepared by the Contractor and submitted with the grant application will require eighteen (18) months to complete. As such, the County commits to preparing and submitting a request to the NYS DOS to amend the termination date of the Grant Agreement to at least December 31, 2023. Should such an extension be granted by the NYS DOS, the County will prepare an amendment to this Agreement to extend the termination date, subject to any and all required approvals, including, but not limited to, approval of the Westchester County Board of Acquisition and Contract. Should an appropriate extension not be granted by the NYS DOS, the County will notify the Contractor for discussion and decision on whether to continue, suspend or terminate the Work, noting that any amendments to this Agreement will be subject to any and all required approvals, including, but not limited to, approval of the Westchester County Board of Acquisition and Contract.

In addition to the reporting requirements set forth in the Grant Agreement, the Contractor shall report its progress toward completing the Work to the Commissioner of the Department of Planning or her duly authorized designee (the "Commissioner") on a monthly basis or more frequently as the Commissioner may request, and shall immediately inform the Commissioner in writing of any cause for delay in the performance of its obligations under this Agreement and/or the Grant Agreement.

**THIRD:** For the Work to be performed pursuant to Paragraph "FIRST," the Contractor shall be paid a total amount not to exceed \$240,428.00, payable on a reimbursement basis for actual Work performed and in accordance with the budget in Attachment B-1 of the Grant Agreement attached as Schedule "A" hereto and made a part hereof. The Contractor agrees that the payment of these

funds by the County is contingent upon the County receiving these funds from the State of New York under the Grant Agreement.

Any and all requests for payment to be made, including any request for partial payment if such is permitted hereunder, shall be submitted by the Contractor on properly executed payment vouchers of the County and paid only after approval by the Commissioner. All payment vouchers must be accompanied by a numbered invoice and must contain the invoice number where indicated. All invoices submitted during each calendar year shall utilize consecutive numbering and be non-repeating. In no event shall *final* payment be made to the Contractor prior to completion of all Work and the approval of same by the Commissioner.

Except as otherwise expressly stated in this Agreement, no payment shall be made by the County to the Contractor for out-of-pocket expenses or disbursements made in connection with the services rendered or the Work to be performed hereunder.

**FOURTH:** The Contractor shall, at no additional charge, furnish all labor, services, materials, goods, equipment and any other things necessary to complete the Work, unless specific additional charges are expressly permitted under this Agreement. It is recognized and understood that even if specific additional charges are expressly permitted under this Agreement, in no event shall total payment to the Contractor exceed the not-to-exceed amount set forth above.

**FIFTH:** Intentionally omitted.

**SIXTH:** The parties recognize and acknowledge that the obligations of the County under this Agreement are subject to the County's receipt of funds from New York State in accordance with the Grant Agreement.

If, for any reason, the full amount of said funds is not paid over or made available to the County by New York State, the County may terminate this Agreement immediately or reduce the amount payable to the Contractor, in the discretion of the County. The County shall give prompt notice of any such termination or reduction to the Contractor. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice.

The parties recognize and acknowledge that the obligations of the County under this Agreement are subject to annual appropriations by its Board of Legislators pursuant to the Laws of



Westchester County. Therefore, this Agreement shall be deemed executory only to the extent of the monies appropriated and available. The County shall have no liability under this Agreement beyond funds appropriated and available for payment pursuant to this Agreement. The parties understand and intend that the obligation of the County hereunder shall constitute a current expense of the County and shall not in any way be construed to be a debt of the County in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the County, nor shall anything contained in this Agreement constitute a pledge of the general tax revenues, funds or moneys of the County. The County shall pay amounts due under this Agreement exclusively from legally available funds appropriated for this purpose. The County shall retain the right, upon the occurrence of the adoption of any County Budget by its Board of Legislators during the term of this Agreement or any amendments thereto, and for a reasonable period of time after such adoption(s), to conduct an analysis of the impacts of any such County Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates set forth herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice.

This Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice.

**SEVENTH:** (a) The County, upon ten (10) days' notice to the Contractor, may terminate this Agreement in whole or in part when the County deems it to be in its best interest. In such event, the Contractor shall be compensated and the County shall be liable only for payment for services already rendered under this Agreement prior to the effective date of termination, which shall be pro-rated in accordance with the budget set forth in Attachment B-1 of the Grant Agreement

attached as Schedule "A." Upon receipt of notice that the County is terminating this Agreement in its best interests, the Contractor shall stop Work immediately and incur no further costs in furtherance of this Agreement without the express approval of the Commissioner, and the Contractor shall direct any approved subcontractors to do the same.

In the event of a dispute as to the value of the Work rendered by the Contractor prior to the date of termination, it is understood and agreed that the Commissioner shall determine the value of such Work rendered by the Contractor. The Contractor shall accept such reasonable and good faith determination as final.

(b) In the event the County determines that there has been a material breach by the Contractor of any of the terms of the Agreement and such breach remains uncured for forty-eight (48) hours after service on the Contractor of written notice thereof, the County, in addition to any other right or remedy it might have, may terminate this Agreement and the County shall have the right, power and authority to complete the Work provided for in this Agreement, or contract for its completion, and any additional expense or cost of such completion shall be charged to and paid by the Contractor. Without limiting the foregoing, upon written notice to the Contractor, repeated breaches by the Contractor of duties or obligations under this Agreement shall be deemed a material breach of this Agreement justifying termination for cause hereunder without requirement for further opportunity to cure.

**EIGHTH:** Nothing contained in this Agreement shall be construed to confer third-party beneficiary rights to any person or entity not a party to this Agreement.

**NINTH:** The Contractor agrees to procure and maintain insurance naming the County as additional insured, as provided and described in Schedule "C," entitled "Standard Insurance Provisions," which is attached hereto and made a part hereof. In addition to, and not in limitation of the insurance provisions contained in Schedule "C," the Contractor agrees:

(a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the sole negligence of the County, the Contractor shall indemnify and hold harmless the County, its officers, employees, agents, and elected officials from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the Contractor or third parties under the direction or control of the Contractor; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto; and

(c) In the event the Contractor does not provide the above defense and indemnification to the County, and such refusal or denial to provide the above defense and indemnification is found to be in breach of this provision, then the Contractor shall reimburse the County's reasonable attorney's fees incurred in connection with the defense of any action, and in connection with enforcing this provision of the Agreement.

**TENTH:** The Contractor represents and warrants that all prices quoted herein for the work to be performed hereunder have been arrived at by the Contractor independently and have been submitted without collusion with any other vendor of similar materials, supplies, equipment or services.

**ELEVENTH:** The Contractor expressly agrees that neither it nor any Contractor, subcontractor, employee, or any other person acting on its behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed, religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status during the term of or in connection with this Agreement, as those terms may be defined in Chapter 700 of the Laws of Westchester County. The Contractor acknowledges and understands that the County maintains a zero tolerance policy prohibiting all forms of harassment or discrimination against its employees by co-workers, supervisors, vendors, contractors, consultants or others.

**TWELFTH:** The Contractor shall comply, at its own expense, with the provisions of all applicable local, state and federal laws, rules and regulations, including, but not limited to, those applicable to the Contractor as an employer of labor. The Contractor shall further comply, at its own expense, with all applicable rules, regulations and licensing requirements pertaining to its professional status and that of its employees, partners, associates, subcontractors and others employed to render the Work hereunder and in connection with this Agreement.

**THIRTEENTH:** All records or recorded data of any kind compiled by the Contractor in completing the Work described in this Agreement, including but not limited to written reports, studies, drawings, computer printouts, graphs, charts and all other similar recorded data, shall become and remain the property of the County, and subject to the terms and conditions contained in the Grant Agreement. The Contractor may retain copies of such records for its own use and shall not disclose any such information without the express written consent of the County. Notwithstanding the foregoing, the County agrees to collaborate with the Contractor regarding the use, reproduction and publication of such records, subject to the terms and conditions contained in the Grant Agreement. The County shall have the right to reproduce and publish such records, if it so desires, at no additional cost to the County.

**FOURTEENTH:** The Contractor shall not delegate any duties or assign any of its rights under this Agreement without the prior express written consent of the County. The County acknowledges that the project scope prepared by the Contractor includes tasks to be performed by subcontractors. The Contractor shall not subcontract any part of the Work without the written consent of the County, subject to any necessary legal approvals. Any purported delegation of duties, assignment of rights or subcontracting of Work under this Agreement without the prior express written consent of the County is void. All subcontracts that have received such prior written consent shall provide that subcontractors are subject to all terms and conditions set forth in this Agreement. It is recognized and understood by the Contractor that for the purposes of this Agreement, all Work performed by a County-approved subcontractor shall be deemed Work performed by the Contractor and the Contractor shall insure that such subcontracted work is subject to the material terms and conditions of this Agreement.

All subcontracts for the Work shall expressly reference the subcontractor's duty to comply with the material terms and conditions of this Agreement and shall attach a copy of the County's contract with the Contractor. The Contractor shall obtain a written acknowledgement from the owner and/or chief executive of subcontractor or his/her duly authorized representative that the subcontractor has received a copy of the County's contract, read it and is familiar with the material terms and conditions thereof. The Contractor shall include provisions in its subcontracts designed to ensure that the Contractor and/or its auditor has the right to examine all relevant books, records, documents or electronic data of the subcontractor necessary to review the subcontractor's

compliance with the material terms and conditions of this Agreement. For each and every year for which this Agreement continues, the Contractor shall submit to the Director a letter signed by the owner and/or chief executive officer of the Contractor or his/her duly authorized representative certifying that each and every approved subcontractor is in compliance with the material terms and conditions of the Agreement.

**FIFTEENTH:** The Contractor and the County agree that the Contractor and its officers, employees, agents, contractors, subcontractors and/or subconsultants are independent contractors and not employees of the County or any department, agency or unit thereof. In accordance with their status as independent contractors, the Contractor covenants and agrees that neither the Contractor nor any of its officers, employees, agents, contractors, subcontractors and/or subconsultants will hold themselves out as, or claim to be, officers or employees of the County or any department, agency or unit thereof.

**SIXTEENTH:** Failure of the County to insist, in any one or more instances, upon strict performance of any term or condition herein contained shall not be deemed a waiver or relinquishment of such term or condition, but the same shall remain in full force and effect. Acceptance by the County of any Work or the payment of any fee or reimbursement due hereunder with knowledge of a breach of any term or condition hereof, shall not be deemed a waiver of any such breach and no waiver by the County of any provision hereof shall be implied.

**SEVENTEENTH:** All notices of any nature referred to in this Agreement shall be in writing and either sent by registered or certified mail postage pre-paid, or delivered by hand or overnight courier, (with acknowledgment received and a copy of the notice sent by registered or certified mail postage pre-paid), as set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt. Notices shall be sent to the following:

To the County:           Commissioner  
                                  Department of Planning  
                                  148 Martine Avenue  
                                  White Plains, New York 10601

with a copy to: County Attorney  
Michaelian Office Building  
148 Martine Avenue, Room 600  
White Plains, New York 10601

To the Contractor: Bronx River Alliance, Incorporated  
1 Bronx River Parkway  
Bronx, New York 10462

**EIGHTEENTH:** This Agreement and its attachments constitute the entire Agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

In the event of any conflict between the terms of this Agreement and the terms of any schedule or attachment hereto, it is understood that the terms of this Agreement shall be controlling with respect to any interpretation of the meaning and intent of the parties.

**NINETEENTH:** Nothing herein is intended or shall be construed to confer upon or give to any third party or its successors and assigns any rights, remedies or basis for reliance upon, under or by reason of this Agreement, except in the event that specific third party rights are expressly granted herein.

**TWENTIETH:** The Contractor recognizes that this Agreement does not grant the Contractor the exclusive right to perform the Work for the County and that the County may enter into similar agreements with other contractors on an "as needed" basis.

**TWENTY-FIRST:** Pursuant to Section 308.01 of the Laws of Westchester County, it is the goal of the County to use its best efforts to encourage, promote and increase the participation of business enterprises owned and controlled by women or persons of color in contracts and projects funded by all departments of the County. Schedule "D" is a Questionnaire entitled, "Business Enterprises Owned and Controlled by Women or Persons of Color." In furtherance of Section 308.01 of the Laws of Westchester County, the Contractor shall provide the County with a completed Schedule "D" that is attached hereto and made a part hereof.

**TWENTY-SECOND:** Schedule "E" is a questionnaire entitled, "Required Disclosure of Relationships to County." The Contractor shall provide the County with a completed Schedule "E" that is attached hereto and made a part hereof.

In the event that any information provided in the Schedule "E" that is part of this Agreement must be changed during the term of this Agreement, Contractor agrees to notify County in writing within ten (10) business days of such change.

**TWENTY-THIRD:** Schedule "F" is a form entitled, "Criminal Background Disclosure." In compliance with Executive Order No. 1-2008, the Contractor shall provide the County with a completed Schedule "F" that is attached hereto and made a part hereof.

**TWENTY-FOURTH:** Pursuant to Section 310.01 of the Laws of Westchester County, no County procuring officer may award or recommend for award any contract not subject to competitive bidding to a party that does not execute a certification in substantially the form contained in Schedule "G," which is entitled, "Certification Regarding Business Dealings with Northern Ireland." Therefore, the Contractor shall provide the County with a completed Schedule "G" that is attached hereto and made a part hereof.

**TWENTY-FIFTH:** **VENDOR DIRECT PAYMENT:** All payments made by the County to the Contractor will be made by electronic funds transfer ("EFT") pursuant to the County's Vendor Direct program. Successful Contractors doing business with Westchester County, who are not already enrolled in the Vendor Direct Program, will be required to fill out and submit an EFT Authorization Form prior to receiving an award or purchase order. The EFT Authorization Form, Instructions and related information are annexed hereto as Schedule "I". Payments will be automatically credited to the Contractor's designated bank account at the Contractor's financial institution. Payments are anticipated to be deposited two business days after the voucher/invoice is processed for payment. Saturdays, Sundays, and legal holidays are not considered business days. Under the Vendor Direct Program you will receive an e-mail notification two days prior to the day the payment will be credited to your designated account. The e-mail notification will come in the form of a remittance advice with the same information that currently appears on County check stubs and will contain the date that the funds will be credited to your account. All information received will be treated and handled as strictly confidential. The completed Authorization Form

must be returned by the Contractor to the Department of Finance prior to execution of the contract. In rare cases, a hardship waiver may be granted. For a Hardship Waiver Request Form, please contact the Finance Department. Any successful Contractor that fails to return the completed authorization form(s) prior to execution of the contract may be considered non-responsive and the contract may be rejected.

**TWENTY-SIXTH:** The County believes it is a laudable goal to provide business opportunities to veterans who were disabled while serving our country, and wants to encourage the participation in County contracts of certified business enterprises owned and controlled by service-disabled veterans. As part of the County's program to encourage the participation of such business enterprises in County contracts, and in furtherance of Article 17-B of the New York State Executive Law, the Contractor agrees to complete the questionnaire entitled Questionnaire Regarding Business Enterprises Owned and Controlled by Service-Disabled Veterans attached hereto as Schedule "H," as part of this Agreement.

**TWENTY-SEVENTH:** This Agreement may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. This Agreement shall be construed and enforced in accordance with the laws of the State of New York. In addition, the parties hereby agree that any cause of action arising out of this Agreement shall be brought in the County of Westchester.

If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid or void or unenforceable, the remainder of the terms and provisions of this Agreement shall in no way be affected, impaired, or invalidated, and to the extent permitted by applicable law, any such term, or provision shall be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision shall be interpreted and enforced to give effect to the original written intent of the parties prior to the determination of such invalidity or unenforceability.

**TWENTY-EIGHTH:** The Contractor shall use all reasonable means to avoid any conflict of interest with the County and shall immediately notify the County in the event of a conflict of interest. The Contractor shall also use all reasonable means to avoid any appearance of impropriety.



**TWENTY-NINTH:** The Contractor hereby represents that, if operating under an assumed name, it has filed the necessary certificate pursuant to New York State General Business Law Section 130.

**THIRTIETH:** This Agreement shall not be enforceable until signed by both parties and approved by the Office of the County Attorney.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, The County of Westchester and the Contractor have caused this Agreement to be executed.

**THE COUNTY OF WESTCHESTER**

By: *Norma V. Drummond*  
Norma V. Drummond  
Commissioner of Planning

**BRONX RIVER ALLIANCE, INCORPORATED**

By: *Maggie Greenfield*  
Name: Maggie Greenfield  
Title: Executive Director

Authorized by the Westchester County Board of Acquisition & Contract at a meeting duly held on the 2nd day of September, 2021.

Approved:

*Lynne A. Colantuono*  
Senior Assistant County Attorney  
The County of Westchester

*3-17-22*

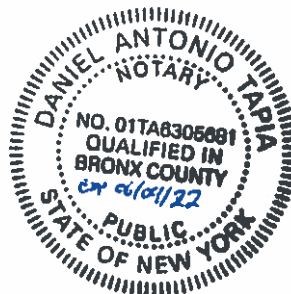
**ACKNOWLEDGMENT**

STATE OF NEW YORK        )  
  ) ss.:  
COUNTY OF                    )

On the 2<sup>nd</sup> day of March in the year 2022 before me, the undersigned, personally appeared Maggie Greenfield, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Date: 03/02/2022

  
\_\_\_\_\_  
Notary Public



**CERTIFICATE OF AUTHORITY**  
Bronx River Alliance, Incorporated

I, Nilka Martell  
(Officer other than officer signing contract)

certify that I am the Board Chair of  
(Title)  
the Bronx River Alliance, Inc.  
(Name of Corporation)

a corporation duly organized and in good standing under the Not-for-Profit Corporation Law of  
(Law under which organized, e.g., the New York Business Corporation Law) named in the New York  
foregoing agreement; that

Maggie S. Greenfield  
(Person executing agreement)

who signed said agreement on behalf of the Bronx River Alliance, Inc.  
(Name of Corporation)

was, at the time of execution Executive Director  
(Title of such person)

of the Corporation and that said agreement was duly signed for and on behalf of said Corporation by authority of its Board of Directors, thereunto duly authorized and that such authority is in full force and effect at the date hereof.

Nilka Martell  
(Signature)

STATE OF NEW YORK            )  
  ) ss.:  
COUNTY OF WESTCHESTER)

On the 2<sup>nd</sup> day of March in the year 2022 before me, the undersigned, a Notary Public in and for said State, Nilka Martell personally appeared, personally known to me or proved to me on the basis of satisfactory evidence to be the officer described in and who executed the above certificate, who being by me duly sworn did depose and say that he/she resides at 1236 Virginia Ave, Bronx NY 10472, and he/she is an officer of said corporation; that he/she is duly authorized to execute said certificate on behalf of said corporation, and that he/she signed his/her name thereto pursuant to such authority.



[Signature]  
Notary Public  
Date 03/02/2022

**SCHEDULE "A"**

**GRANT AGREEMENT WITH WORK PLAN  
AND BUDGET ATTACHED HERETO**



## STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<b>STATE AGENCY:</b>  NYS Department of State One Commerce Plaza 99 Washington Avenue – Suite 1010 Albany, NY 12231	<b>BUSINESS UNIT/DEPT ID:</b> DOS01/3800000  <b>CONTRACT NUMBER:</b> C1001357  <b>CONTRACT TYPE:</b> <input type="checkbox"/> Multi-Year Agreement <input type="checkbox"/> Simplified Renewal Agreement <input checked="" type="checkbox"/> Fixed Term Agreement
<b>CONTRACTOR SFS PAYEE NAME:</b>  WESTCHESTER COUNTY OF	<b>TRANSACTION TYPE:</b> <input checked="" type="checkbox"/> New <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment
<b>CONTRACTOR DOS INCORPORATED NAME:</b>  n/a	<b>PROJECT NAME:</b>  Bronx River Watershed Management Plan Update
<b>CONTRACTOR IDENTIFICATION NUMBERS:</b>  NYS VENDOR ID Number: 1000001534 Federal Tax ID Number: 13-6007353 DUNS Number (if applicable): n/a	<b>AGENCY IDENTIFIER:</b> 18-LWRP-10  <b>CFDA NUMBER (Federally Funded Grants Only):</b> n/a
<b>CONTRACTOR PRIMARY MAILING ADDRESS:</b>  County of Westchester 148 Martine Avenue White Plains, NY 10601  <b>CONTRACTOR PAYMENT ADDRESS:</b> <input checked="" type="checkbox"/> Check if same as primary mailing address  <b>CONTRACTOR MAILING ADDRESS</b> <input checked="" type="checkbox"/> Check if same as primary mailing address	<b>CONTRACTOR STATUS:</b> <input type="checkbox"/> For Profit <input checked="" type="checkbox"/> Municipality, Code: <input type="checkbox"/> Tribal Nation <input type="checkbox"/> Individual <input type="checkbox"/> Not-for-Profit  Charities Registration Number: n/a  Exemption Status/Code: 3A/02  <input type="checkbox"/> Sectarian Entity

**STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE**

<p><b>CURRENT CONTRACT TERM:</b>                  FROM: 9/1/2018 TO: 8/30/2023</p> <p><b>CURRENT CONTRACT PERIOD:</b>                  FROM: 9/1/2018 TO: 8/30/2023</p> <p><b>AMENDED TERM:</b>                  FROM: TO:</p> <p><b>AMENDED PERIOD:</b>                  FROM: TO:</p>	<p><b>CONTRACT FUNDING AMOUNT:</b>                  (Multi-year – enter total projected amount of the contract; Fixed Term/Simplified Renewal – enter current period amount)</p> <p><b>CURRENT:</b> \$245,428.00</p> <p><b>AMENDED:</b></p> <p><b>FUNDING SOURCES:</b></p> <p><input checked="" type="checkbox"/> State  <input type="checkbox"/> Federal  <input type="checkbox"/> Other</p>
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**FOR MULTI-YEAR AGREEMENTS ONLY – CONTRACT PERIOD AND FUNDING AMOUNT:**  
 (Out years represent projected funding amounts)

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

**ATTACHMENTS PART OF THIS AGREEMENT:**

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

IN WITNESS THEREOF, the parties hereto have executed or approved this Master Contract on the dates below their signatures.

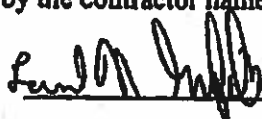
<b>CONTRACTOR:</b>  County of Westchester 148 Martine Avenue White Plains, NY 10601  By: <u></u> <u>George Latimer</u> Printed Name  Title: <u>County Executive</u> Date: <u>1/13/2020</u>	<b>STATE AGENCY:</b>  NYS Department of State One Commerce Plaza 99 Washington Avenue - Suite 1010 Albany, NY 12231  By: <u></u> <u>LuAnn I. Hart</u> Printed Name  Title: <u>Director of Financial Administration</u> Date: <u>12/31/2020</u>
--	--

STATE OF NEW YORK

COUNTY OF Westchester

On the 13 day of January, 2020, before me personally appeared George Latimer, to me known, who being by me duly sworn, did depose and say that he resides at Rye, NY, that he is the County Executive of the County of Westchester, the contractor described herein which executed the foregoing instrument; and that he signed his name thereto as authorized by the contractor name on the face page of this Master Contract.

(Notary)



William H. Grunfeld  
Notary Public, State of New York  
No. 01GR8037034  
Qualified in Westchester County  
Commission Expires February 22, 2022

ATTORNEY GENERAL'S SIGNATURE

By: \_\_\_\_\_  
\_\_\_\_\_  
Printed Name

Title: \_\_\_\_\_  
Date: \_\_\_\_\_

STATE COMPTROLLER'S SIGNATURE

By: \_\_\_\_\_  
\_\_\_\_\_  
Printed Name  
Jan 03 2021  
Paul A. Bechman  
Date: \_\_\_\_\_  
\_\_\_\_\_  
FOR THE STATE COMPTROLLER



**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

Contract Number: # C1001357

Page 1 of 25, Master Contract for Grants - Standard Terms and Conditions

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

**C. Order of Precedence:**

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

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

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

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

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

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

<sup>2</sup> To the extent that the terms of Attachment A-2 are required by federal requirements and conflict with other provisions of the Master Contract, the federal requirements of Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).  
Contract Number: # C1001357

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.<sup>3</sup>

**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

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

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

## II. TERM, TERMINATION AND SUSPENSION

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

**B. Renewal:**

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

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

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

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

## **C. Termination:**

### **1. Grounds:**

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

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

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

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

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

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

### **2. Notice of Termination:**

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

(i) personal messenger service; or

(ii) certified mail, return receipt requested and first class mail.

b) **Effective date of termination:** The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Contractor, and shall be established as follows:

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

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

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

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

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

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

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

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

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

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

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

**D. Suspension:** The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor's expenses during such suspension period. Activities may resume at such time



as the State issues a formal written notice authorizing a resumption of performance under the Master Contract.

### **III. PAYMENT AND REPORTING**

#### **A. Terms and Conditions:**

1. In full consideration of contract services to be performed, the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.
2. The State has no obligation to make payment until all required approvals, including the approval of the AG and OSC, if required, have been obtained. Contractor obligations or expenditures that precede the start date of the Master Contract shall not be reimbursed.
3. Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Attachment D (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.
4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of the State Agency, in the sole discretion of the head of such State Agency, due to extenuating circumstances. Such electronic payment shall be made in accordance with OSC's procedures and practices to authorize electronic payments.
5. If travel expenses are an approved expenditure under the Master Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.
6. Timeliness of advance payments or other claims for reimbursement, and any interest to be paid to Contractor for late payment, shall be governed by Article 11-A of the State Finance Law to the extent required by law.
7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, "Full Execution" shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Master Contract shall be governed by Article 11-B of the State Finance Law.

**B. Advance Payment and Recoupment:**

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Attachment D (Payment and Reporting Schedule).
2. Advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page.
3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Attachment D) will be modified as part of the renewal process.
4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Attachment D (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.
5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

**C. Claims for Reimbursement:**

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

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

2. Consistent with the selected reimbursement claiming schedule in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:
  - a) Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

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

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

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

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

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

d) Milestone/Performance Reimbursement:<sup>4</sup> Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event.

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

e) Fee for Service Reimbursement:<sup>5</sup> Payment shall be limited to only those fees specifically agreed upon in the Master Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f) Rate Based Reimbursement:<sup>6</sup> Payment shall be limited to rate(s) established in the Master Contract. Payment may be requested no more frequently than monthly.

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

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<sup>4</sup> 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.

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

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

<sup>7</sup> Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Master Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

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

h) Fifth Quarter Payments.<sup>8</sup> Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. The State Agency shall use a written directive for fifth quarter financing. The State Agency shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.
4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Master Contract as security for the faithful completion of services or work, as applicable, under the Master Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Master Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.
5. The State shall not be liable for payments on the Master Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.
6. All vouchers submitted by the Contractor pursuant to the Master Contract shall be submitted to the State Agency no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by the State Agency, and, if actual expenditures by the Contractor are less than such sum, the amount payable by the State Agency to the Contractor shall not exceed the amount of actual expenditures.
7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Master Contract is funded in whole or in part with federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

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

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number, (ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to

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

include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

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

#### **E. Refunds:**

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

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

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

#### **G. Program and Fiscal Reporting Requirements:**

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

2. Consistent with the selected reporting options in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the following applicable provisions:

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

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

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

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

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

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

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

(i) *Progress Report*: The Contractor shall provide the State Agency with a written progress report using the forms and formats as provided by the State Agency, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Attachment C (Work Plan). Progress reports shall be submitted in a format prescribed in the Master Contract.

(ii) **Final Progress Report:** Final scheduled payment is due during the time period set forth in Attachment D (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Attachment D (Payment and Reporting Schedule). The State Agency shall complete its audit and notify the Contractor of the results no later than the date set forth in Attachment D (Payment and Reporting Schedule). Payment shall be adjusted by the State Agency to reflect only those services/expenditures that were made in accordance with the Master Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Attachment D (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

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

#### **H. Notification of Significant Occurrences:**

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

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

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

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

1. The State and the Contractor agree that the Contractor is an independent contractor, and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Master Contract, and all applicable Federal and State laws and regulations.

2. The Contractor warrants that it, its staff, and any and all subcontractors have all the necessary licenses, approvals, and certifications currently required by the laws of any applicable local, state, or Federal government to perform the services or work, as applicable, pursuant to the

Master Contract and/or any subcontract entered into under the Master Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Master Contract, or any extension thereof, and to secure any new licenses, approvals, or certificates within the required time frames and/or to require its staff and subcontractors to obtain the requisite licenses, approvals, or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval, or certification to perform the services or work, as applicable, under the Master Contract, Contractor shall immediately notify the State.

**B. Subcontractors:**

1. If the Contractor enters into subcontracts for the performance of work pursuant to the Master Contract, the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Master Contract. No contractual relationship shall be deemed to exist between the subcontractor and the State.
2. The Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of \$100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of \$100,000 prior to giving written permission to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of the Master Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Master Contract, and (3) that nothing contained in the subcontract, nor under the Master Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.
3. Prior to executing a subcontract, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.
4. When a subcontract equals or exceeds \$100,000, the subcontractor must submit a Vendor Responsibility Questionnaire (Questionnaire).
5. When a subcontract is executed, the Contractor must provide detailed subcontract information (a copy of subcontract will suffice) to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.
6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to the State agency, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Attachment D (Payment and Reporting Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as



applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

**C. Use Of Material, Equipment, Or Personnel:**

1. The Contractor shall not use materials, equipment, or personnel paid for under the Master Contract for any activity other than those provided for under the Master Contract, except with the State's prior written permission.
2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Master Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Master Contract.

**D. Property:**

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit.
  - a) If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.
  - b) If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Master Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Master Contract.
  - c) In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.
  - d) The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Master Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the State Agency, naming the State Agency as an additional insured, covering the loss, theft or destruction of such equipment.
  - e) A rental charge to the Master Contract for a piece of Property owned by the Contractor shall not be allowed.
  - f) The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Master Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.

- g) No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Master Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.
2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Master Contract:
- a) For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.
  - b) For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.
3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Master Contract shall be governed by the terms and conditions of Attachment A-2 (Federally Funded Grants).
4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.
5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

**E. Records and Audits:**

**1. General:**

- a) The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract (collectively, Records).
- b) The Contractor agrees to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such Records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:
  - (i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders, detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

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

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

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

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

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

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

## **2. Cost Allocation:**

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

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

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

**F. Confidentiality:** The Contractor agrees that it shall use and maintain information relating to individuals who may receive services, and their families pursuant to the Master Contract, or any other information, data or records deemed confidential by the State (Confidential Information) only

for the limited purposes of the Master Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

**G. Publicity:**

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

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

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

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

3. Notwithstanding the above, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Master Contract (but are not deliverable under the Master Contract), provided that the Contractor first submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section V(G)(2) (Publicity) hereof.

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

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

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

1. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status;
2. The Contractor shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts;
3. The Contractor shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment,

promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

4. At the request of the State, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative shall affirmatively cooperate in the implementation of the Contractor's obligations herein; and

5. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

The Contractor shall include the provisions of subclauses 1 – 5 of this Section (IV)(J), in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (Work) except where the Work is for the beneficial use of the Contractor. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to the Master Contract; or (ii) employment outside New York State. The State shall consider compliance by the Contractor or a subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The State shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such Federal law and if such duplication or conflict exists, the State shall waive the applicability of Section 312 of the Executive Law to the extent of such duplication or conflict. The Contractor shall comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

**K. Omnibus Procurement Act of 1992:** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises, as bidders, subcontractors and suppliers on its procurement contracts.

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

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

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

c) The Contractor agrees to make reasonable efforts to provide notification to State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification

in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

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

**L. Workers' Compensation Benefits:**

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

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

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

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

1. any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency;
2. any debts owed for UI contributions, interest, and/or penalties;
3. the history and results of any audit or investigation; and
4. copies of wage reporting information.

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

**N. Vendor Responsibility:**

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

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

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

4. The State reserves the right, in its sole discretion, at any time during the term of the Master Contract:

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

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

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Master Contract based on:

- a) any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or
- b) the State's discovery of any material information which pertains to the Contractor's responsibility.



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

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

**P. Consultant Disclosure Law:**<sup>9</sup> If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**Q. Wage and Hours Provisions:** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

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<sup>9</sup> Not applicable to not-for-profit entities.

**ATTACHMENT A-1**  
**AGENCY AND PROGRAM SPECIFIC TERMS AND CONDITIONS**

**I. Agency Specific Clauses (revised 7/27/17)**

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
2. 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. 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 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.

**D. 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.

#### **E. 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.

#### F. 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 to possess requisite workers compensation and disability insurance coverage (see <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. Notwithstanding 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.

#### **G. 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.**

#### **H. 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 VendRep System, see the VendRep System Instructions available at <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](mailto: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](http://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.

#### **I. 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.

#### **J. Records Access**

The Contractor shall make such records available for review by the Department upon request at any time. 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.

#### **K. Notices**

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

##### **1. Notice to the State**

<b>Name:</b>	Laurissa Garcia
<b>Title:</b>	Contract Management Specialist
<b>Agency/Division:</b>	Department of State, Office of Planning and Development
<b>Address:</b>	99 Washington Avenue, Suite 1010 Albany, NY 12231
<b>Telephone Number:</b>	518-486-9540
<b>E-Mail Address:</b>	<a href="mailto:opdcontracts@dos.ny.gov">opdcontracts@dos.ny.gov</a>

**2. Notice to the Contractor**

**Name:** George Latimer  
**Title:** County Executive  
**Affiliation:** County of Westchester  
**Address:** 148 Martine Avenue  
White Plains, NY 10601  
**Telephone Number:** 914-995-2900  
**E-Mail Address:** [CE@westchestergov.com](mailto:CE@westchestergov.com)

**L. 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.*

**M. 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 10<sup>th</sup> 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 Women-owned 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.

#### **N. 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: [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov), or the DOS Division of Affirmative Action Programs – SDVOB Program at [Maria.Herman@dos.ny.gov](mailto:Maria.Herman@dos.ny.gov) or [Api.Ohono@dos.ny.gov](mailto:Api.Ohono@dos.ny.gov). The directory of certified SDVOB vendors can be found at: [https://ogs.ny.gov/Veterans/Docs/CertifiedNYS\\_SDVOB.pdf](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.**
- 9. The Contractor shall submit with its request for final payment a Final Project Summary Report and a final Project Status Report on forms prescribed by the Department.**

10. The Contractor shall submit a Project Status Report, on a form prescribed by the Department, on a semi-annual basis for the periods ending June 30 and December 31. Reports are due no later than 30 days following the end of each reporting period.

**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 CFR 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 splittable 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/NYS DOT quadrangle Lat/Long or NYTM coordinates. The maps must be geometrically correct and should register when overlaid on the appropriate USGS/NYS DOT 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**

<b>Budget Summary:</b>	<b>Local Match</b> 25%	<b>State Funds</b> 75%	<b>Total Budget</b>
A. Salaries	\$ 0.00	\$ 5,000.00	\$ 5,000.00
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	\$ 79,410.00	\$ 240,428.00	\$ 319,838.00
F. Other	\$ 2,400.00	\$ 0.00	\$ 2,400.00
<b>Totals:</b>	<b>\$ 81,810.00</b>	<b>\$ 245,428.00</b>	<b>\$ 327,238.00</b>

<b>MWBE Goals:</b>			
State funds subject to MWBE goals			\$ 90,000.00
MBE Goal	15%		\$ 13,500.00
WBE Goal	15%		\$ 13,500.00

Budget Detail  
Page 1 of 1

<b>A. SALARIES (including fringe benefits)</b>	<b>Local Match</b>	<b>State Funds</b>	<b>Total Funds</b>
Director of Environmental Planning (Annual Salary: \$208,148.00)	\$ 0.00	\$ 5,000.00	\$ 5,000.00
	\$ 0.00	\$ 5,000.00	\$ 5,000.00

<b>B. TRAVEL</b>	<b>Local Match</b>	<b>State Funds</b>	<b>Total Funds</b>
	\$ 0.00	\$ 0.00	\$ 0.00

<b>C. SUPPLIES</b>	<b>Local Match</b>	<b>State Funds</b>	<b>Total Funds</b>
	\$ 0.00	\$ 0.00	\$ 0.00

<b>D. EQUIPMENT</b>	<b>Local Match</b>	<b>State Funds</b>	<b>Total Funds</b>
	\$ 0.00	\$ 0.00	\$ 0.00

<b>E. CONTRACTUAL SERVICES</b>	<b>Local Match</b>	<b>State Funds</b>	<b>Total Funds</b>
Contractual services to prepare watershed plan update with climate resiliency strategy, conduct ecological assessment and water quality testing and coordinate public engagement. Subcontractor: Bronx River Alliance, 1 Bronx River Parkway, Bronx, NY	\$ 9,410.00	\$ 240,428.00	\$ 249,838.00
Contractual services to prepare a geomorphic study of the Bronx River in Westchester County Subcontractor: Field Geology Services, 68 Deering Street, Portland, ME	\$ 70,000.00	\$ 0.00	\$ 70,000.00
	\$ 79,410.00	\$ 240,428.00	\$ 319,838.00

<b>F. OTHER</b>	<b>Local Match</b>	<b>State Funds</b>	<b>Total Funds</b>
Donated professional services by Office of the Bronx Borough President to conduct public engagement- \$60/hour	\$ 1,800.00	\$ 0.00	\$ 1,800.00
Donated professional services by NYC Parks Natural Resources Group to provide technical assistance on the watershed plan development- \$60/hour	\$ 600.00	\$ 0.00	\$ 600.00
	\$ 2,400.00	\$ 0.00	\$ 2,400.00

## **ATTACHMENT C - WORK PLAN**

### **Bronx River Watershed Management Plan Update**

#### **1. Project Description**

Westchester County in partnership with the Bronx River Watershed Alliance will undertake a collaborative, multi-jurisdictional planning process to update the Bronx River Intermunicipal Watershed Plan incorporating a climate resilience strategy. The updated plan will identify critical management strategies and recommendations that will lead to a healthier and more resilient watershed for residents and wildlife.

The Westchester County Department of Planning in partnership with the Bronx River Alliance, Bronx Borough President's Office, Natural Areas Conservancy, New York City Department of Parks and Recreation Natural Resources Group and watershed municipalities will update the 2010 Bronx River Watershed Management Plan. An intermunicipal watershed advisory committee will be established including thirteen municipalities in Westchester County: the villages of Ardsley, Bronxville, Elmsford, Harrison, Scarsdale, Tuckahoe, the towns of Greenburgh, Harrison, Mount Pleasant, New Castle, the cities of Mount Vernon, White Plains, and Yonkers, Bronx and Westchester Counties and other stakeholders. The intermunicipal management plan will cover the entire Bronx River watershed, which encompasses a drainage area of more than 56 square miles flowing southward for 23 miles from Valhalla, NY and emptying into the East River, a tributary of Long Island Sound.

The Bronx River Watershed Management Plan identifies priority recommendations for implementation projects that improve water quality, restore aquatic and riparian habitat and ecosystem services and enhance biodiversity and ecosystem values throughout the watershed. The implementation of this plan has contributed to the reduction of overall environmental stress through stormwater best management practices, stream and wetland restoration, invasive species removal and riparian restoration. This plan will be updated to identify additional projects that will further improve water quality and ecological health in the Bronx River and its tributaries, which will cumulatively contribute to improvements in the downstream waters of the East River, Long Island Sound, and New York Harbor.

An in-depth geomorphic study of the Bronx River is being developed by Westchester County to determine areas prone to flooding and inform priority projects to address resiliency. The match for this grant will consist of cash towards contractual services for the preparation of the geomorphic study, watershed plan update and donated professional services by partnering agencies.

#### **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.

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



- 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 JPG 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).

### **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**

#### **Bronx River Watershed Plan Update Incorporating Climate Resiliency Strategy and Geomorphic Study**

##### **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, 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.

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

##### **Task 2: Watershed Advisory Committee**

In consultation with the Department, the Contractor, with other project partners, shall establish a watershed advisory committee to facilitate communication and cooperation of the involved local governments, State agencies, and other stakeholders essential to preparation and implementation of the watershed plan. The committee will help focus the planning process, assist in reviewing consultant proposals, interact with the project administrator (if one is identified) and review work products. 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. If appropriate, a memorandum of agreement (MOA) or other instrument that describes the purposes and responsibilities of the watershed advisory committee and its partners shall be executed.

**Products:** Draft and final list of proposed members of watershed advisory committee. Draft and final MOA or other instrument. Watershed 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. The Contractor shall submit the RFP or similar instrument to the Department for review and approval prior to release for solicitation of proposals.

Consultant services requested shall include all applicable tasks, activities and responsibilities outlined in the "Project Components" section of this work program.

**Products:** Approved RFP or similar instrument released through advertisement in local papers, the New York State Contract Reporter, or other appropriate means.

**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.
- 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.

NYS Department of State requires a licensed professional engineer, architect or landscape architect licensed to practice in New York State for preparation and certification of final designs and construction documents, and for supervision of construction.

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: Preparation of Community Outreach/Participation Plan**

The Contractor or its consultant(s), in cooperation with the watershed advisory committee, and other partners as appropriate, shall prepare a method and process to encourage community participation in the planning process. The outreach plan will identify key individuals, organizations, and entities to be involved, and will identify the visioning process and the roles and responsibilities in coordinating the entire outreach process, logistics, and the proposed schedule of public meetings. Meetings 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. All public meetings shall be publicized in the community through press releases, announcements, individual mailings, and any other appropriate means. A summary of each public outreach session shall be made available in written form and through other appropriate means, such as websites. The outreach plan and all components, such as press releases, are subject to review and approval by the Department.

**Product:** Community outreach plan submitted to the Department for review and approval.

**Task 7: Public Meetings**

In consultation with the Department, the project partners shall conduct at least three public information meetings. Meetings will be held in New York City and Westchester County to gain local stakeholder insight. The initial meetings will occur during the watershed and waterbody characterization phase of the project to solicit public input in defining and characterizing the nonpoint source pollution, stormwater runoff and climate-related issues in the Bronx River, refine the watershed vision, goals and objectives, and to review and discuss water quality and watershed protection and restoration issues. A meeting will occur prior to preparation of the final Bronx River Watershed Management Plan to allow for public review and comment on the document.

**Product(s):** Public information meetings held. Minutes of meetings prepared and submitted to the Department.

**Task 8: Second Project Meeting**

In consultation with the Department, the Contractor shall hold a second project meeting including the consultant(s), and other project partners as appropriate, to review project requirements, site conditions, and 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 consultant(s) shall prepare and distribute 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.

**Products:** Meeting held with appropriate parties. Written meeting summary outlining agreements reached.

**Task 9: Geomorphic Study**

The Contractor or its consultant(s) shall submit the draft and final geomorphic study to the Department for review and approval. Comments and revisions suggested by the Department must be incorporated into the plan to the satisfaction of the Department prior to finalization and/or publication of the document.

**Products:** Draft and Final Geomorphic Study

**Task 10: Climate Resiliency Strategy**

The Contractor or its consultant(s) shall prepare the Climate Resiliency Strategy to be incorporated into the Bronx River Intermunicipal Watershed Plan. The strategy shall identify the following:

- Climate change projections and impacts on the watershed based on the most up-to-date information, data, studies, models, etc. Localized or regional hotspots of climate risk may be identified.
- Anthropogenic stressors, such as land use patterns, impervious surfaces, manipulation of natural features/systems, pollution, etc., that may compound the effects of climate change on resources.
- Vulnerable resources affected by climate change, such as, but not limited to, native fish and wildlife habitats, water quality, natural protective features, development, infrastructure and socially vulnerable populations.
- Vulnerable ecosystem services affected by climate change.
- Potential impacts and opportunities within the watershed associated with an increase in frequency and severity of storm and precipitation events, sea-level rise, storm surge and flooding
- Projects, strategies, and actions that address resiliency and mitigate climate change impacts, with a preliminary prioritization based on overall Plan goals.

The Contractor or its consultant(s) shall submit the draft and final Climate Resiliency Strategy to the Department for review and approval. Comments and revisions suggested by the Department must be incorporated into the plan to the satisfaction of the Department prior to finalization and/or publication of the document.

**Products:** Draft and Final Climate Resiliency Strategy

**Task 11: Update Vision and Watershed Goals**

The Contractor or its consultant(s), in collaboration with the watershed advisory committee, shall review

and update the vision statement that was developed in the 2010 Bronx River Intermunicipal Watershed Management Plan. The vision will set the tone of the watershed plan and summarize goals and objectives related to improving resilience to climate change risks and reducing vulnerabilities. This vision statement shall guide the planning process including the watershed assessment and analysis, identification of projects and actions; and development of a climate resilience strategy. In addition, the initial set of watershed goals and objectives will be updated to provide a realistic framework for achieving the vision as well as help focus limited resources. See the Department's guidebook: Watershed Plans; Protecting and Restoring Water Quality on Watershed Planning, Chapter 3, for more information.

**Products:** Draft and final vision statement, goals and objectives submitted to the Department for review and approval.

**Task 12:** Prepare Draft Bronx River Intermunicipal Watershed Plan Update incorporating Climate Resiliency Strategy and Geomorphic Study.

In collaboration with the Department, the Contractor or its consultant(s) shall prepare the Draft Watershed Management Plan Update incorporating the Climate Resiliency Strategy and Geomorphic Study. The Draft Watershed Management Plan shall reference all sources of information and identify any information gaps and issues requiring further study. The watershed management plan will contain the following sections: Executive Summary, Introduction, Characterization, Watershed Strategies and Management Recommendations, Implementation Strategy, and Monitoring and Tracking. The Climate Resiliency Strategy and Geomorphic Study will be appended to the Watershed Plan Update with supporting information integrated within the plan, where necessary.

a. **Executive Summary** - The executive summary will provide a concise reference for the entire document. It will present key points of the watershed plan, provide a brief overview of the purpose of the watershed plan, who was involved in the planning process, and highlight the vision, main findings, and list watershed goals, and recommendations.

b. **Introduction** - The introduction will describe the watershed plan (including where the watershed is located, general facts about the watershed and the communities within its boundaries, and general demographics) and provide a basic understanding of the planning process (including partners involved and how they contributed, methodologies used to prepare the plan) to give the reader an understanding of the watershed and why watershed planning is important, particularly in the face of a changing climate. The introduction will also contain the watershed vision - what it means to the community and how it will shape the future of the watershed.

c. **Characterization** - The characterization will provide an inventory and analysis describing the current state of the watershed and assessment of local laws, programs and practices in place for controlling pollution, addressing resiliency and habitat degradation. This section will delineate the watershed and subwatershed boundaries and describe its waterbodies, describe physical and biological characteristics, including how the watershed functions, explain existing and projected land use and land cover patterns, and identify trends within the watershed. The characterization will include an identification of sensitive resource areas, water quality issues, pollutants, climate-related risks and vulnerabilities and corresponding activities impacting water and natural resources. This section will also assess the programs and practices in place for controlling pollution and addressing resilience, describe the assessment process used and discuss the gaps found during the assessment. The geomorphic study will determine the areas prone to flooding. The characterization is the basis for the development of watershed management recommendations.

**d. Watershed Strategies and Management Recommendations** – These sections will explain how water quality will be protected and restored within your watershed through a series of projects, programs and actions, including regulatory and programmatic actions, developed to correct existing impairments, improvements to resilience of the watershed and prevention of future impacts to water quality. It should be explained how specific recommendations were developed and include a discussion of the assessments conducted which support the recommendations. While recommendations should be supported by data, extensive technical information should be included in an appendix or supplemental report.

**e. Implementation Strategy** - This section will set the stage for implementation by identifying the actions needed to address the problems and opportunities in your watershed. It will set out an implementation schedule, articulate priorities and measurable objectives, establish realistic expectations for partner involvement, and outline budget needs. The implementation strategy will include a matrix of prioritized projects and other actions for advancing the implementation of the goals and objectives of the watershed plan, including steps needed to implement the specific projects (e.g., feasibility, design, permitting, construction), timeframe for implementation; short term (e.g., immediate to 1 year), medium term (e.g., greater than 1 year, up to 5 yrs), or long-term (e.g., greater than 5 years), cost estimates, potential funding sources, regulatory approvals needed, and likely project sponsor (agency or organization lead) and project partners.

**f. Monitoring and Tracking** - This section will outline a proposed long-term monitoring and tracking plan, describe indicators and performance criteria for monitoring restoration projects, establish milestones and tracking mechanisms to evaluate progress over time, and propose mechanisms for reporting progress and updating the watershed plan. A monitoring mechanism to track the changes in climate-related vulnerabilities as projects are implemented may be useful. The plan may include identification of potential parties to conduct monitoring activities, potential funding sources and methods of data management.

See the Department's guidebook: Watershed Plans; Protecting and Restoring Water Quality on Watershed Planning for more information.

The Contractor or its consultant(s) shall submit the Draft Watershed Management Plan Update incorporating the Climate Resiliency Strategy, and Geomorphic Study to the Department for review and approval. In addition, the Draft Plan and components shall be distributed to members of the watershed advisory committee for review.

**Products:** Draft Watershed Management Plan Incorporating Climate Resiliency Strategy and Geomorphic Study

**Task 13: Final Watershed Management Plan Update incorporating Climate Resiliency Strategy and Geomorphic Study**

The Contractor or its consultant(s) shall complete the Final Watershed Management Plan Update incorporating the Climate Resiliency Strategy and Geomorphic Study which shall address comments received from the Department, the watershed advisory committee, and the public. Comments and revisions suggested by the Department must be incorporated into these documents to the satisfaction of the Department prior to finalization and/or publication.

**Products:** Final Watershed Management Plan Update incorporating Climate Resiliency Strategy and Geomorphic Study. 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.

## **Grant Reporting**

### **Task 14: 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 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 15: 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 the Department during the life of the contract.

### **Task 16: 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 the Department.

## **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 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.
- 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.



**ATTACHMENT D  
PAYMENT AND REPORTING SCHEDULE**

**I. PAYMENT PROVISIONS**

In full consideration of contract services to be performed the State Agency agrees to pay and the contractor agrees to accept a sum not to exceed the amount noted on the face page hereof. All payments shall be in accordance with the budget contained in the applicable Attachment B form (Budget), which is attached hereto.

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

1. The State agency will make an advance payment to the Contractor, during the initial period, in the amount of \$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: \_\_\_\_\_

- Rate Based Reimbursement  
Due Date: \_\_\_\_\_
- Fifth Quarter Reimbursement  
Due Date: \_\_\_\_\_
- Milestone/Performance Reimbursement  
Due Date/Frequency: \_\_\_\_\_
- Scheduled Reimbursement  
Due Date/Frequency: \_\_\_\_\_

**II. REPORTING PROVISIONS**

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

- Narrative/Qualitative Report  
The Contractor will submit, on a quarterly basis, not later than \_\_\_ days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of the Master Contract.
- Statistical/Quantitative Report  
The Contractor will submit, on a quarterly basis, not later than \_\_\_ days from the end of the quarter, the report described in Section III(G)(2)(a)(ii) of the Master Contract.
- Expenditure Report  
The Contractor will submit, on a quarterly basis, not later than 30 days after the end date for which reimbursement is being claimed, the report described in Section III(G)(2)(a)(iii) of the Master Contract.
- Final Report  
The Contractor will submit the final report as described in Section III(G)(2)(a)(iv) of the Master Contract, no later than 60 days after the end of the contract period.
- Consolidated Fiscal Report (CFR)<sup>1</sup>  
The Contractor will submit the CFR on an annual basis, in accordance with the timeframes designated in the CFR manual. For New York City contractors, the due date shall be May 1 of each year; for Upstate and Long Island contractors, the due date shall be November 1 of each year.

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

## **B. Progress-Based Reports**

### **1. Progress Reports**

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

### **2. Final Progress Report**

Final scheduled payment will not be due until 60 days 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 at project completion. The agency shall complete its audit and notify vendor of the results no later than 60 days later. The Contractor shall submit the report not later than 60 days from the end of the contract.

## **C. Other Reports**

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

**TABLE I – REPORTING SCHEDULE**

<b>PROGRESS REPORT</b>	<b>PERIOD COVERED</b>	<b>DUE DATE</b>
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.	

**SCHEDULE "B"**

**NYS DOS CONTRACT REPORTING  
REQUIREMENTS  
ATTACHED HERETO**

**CONTRACT REPORTING REQUIREMENTS**

Type of Report	When to Submit	Where to Submit	Applicable Forms and Guidance Documents
Status Report	Every six months (June 30 and December 31). Please submit in Word format.	Email to <a href="mailto:opdcontracts@dos.ny.gov">opdcontracts@dos.ny.gov</a>	Status_Form.doc Status_Guidelines.pdf
MWBE Utilization Plan (Form D)	Quarterly if any state-certified MWBE firms have been hired for this contract since the last MWBE Utilization Plan submitted.	Email to <a href="mailto:opdcontracts@dos.ny.gov">opdcontracts@dos.ny.gov</a>	Form D – Utilization Plan.docx
MWBE Utilization Report (formerly Form F)	As payments are made to subcontractors. Double-check quarterly (March 31, June 30, September 30, December 31) to confirm that all payments made have been entered, and enter any missing payments at this time.	NYS Contract System (NYSCS) <a href="https://ny.newnyccontracts.com">https://ny.newnyccontracts.com</a>	NYSCS step-by-step guide.pdf
MWBE Workforce Utilization Report (Form C)	Quarterly (March 31, June 30, September 30, December 31)	Email to <a href="mailto:opdcontracts@dos.ny.gov">opdcontracts@dos.ny.gov</a>	Form C – Workforce Utilization.docx
Payment Request	Quarterly, with the following exceptions: <ul style="list-style-type: none"> <li>- no costs were incurred during the quarter.</li> <li>- an advance was received and not yet spent in full.</li> <li>- 90% of the grant award has been received, but the project has not yet been completed.</li> </ul>	Mail original payment request, including corresponding attachments and standard voucher to:  New York State Department of State ATTN: FISCAL OFFICE One Commerce Plaza 99 Washington Avenue - Suite 1110 Albany, New York 12231-0001	BOA: DOS_OPD_BOA_PR_Forms_16_0603.xlsx OR DOS_OPD_BOA_PR_Forms_16_0603.doc  EPP: DOS_OPD_LWRP_PR_Forms_16_0603.xlsx OR DOS_OPD_LWRP_PR_Forms_16_0603.doc  Attachments (for EPP and BOA): DOS_OPD_PR_Attachments_16_0603.xlsx  Backup documentation information: DOS_PR_backup_documentation_final_16_0624.docx
Products	As draft and final products are completed. If any completed products have not yet been submitted, they should be submitted at this time. Refer to the work plan of your contract for further details.	Email to DOS Project Manager.  If a hardcopy is requested, mail to:  New York State Department of State Office of Planning & Development ATTN: Project Manager Name One Commerce Plaza 99 Washington Avenue - Suite 1010 Albany, New York 12231-0001	Work Plan (Attachment C or Appendix D) of the executed contract or most recent amendment.

**SCHEDULE "C"**  
**STANDARD INSURANCE PROVISIONS**

1. Prior to commencing work, and throughout the term of the Agreement, the Contractor shall obtain at its own cost and expense the required insurance as delineated below from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better. Contractor shall provide evidence of such insurance to the County of Westchester ("County"), either by providing a copy of policies and/or certificates as may be required and approved by the Director of Risk Management of the County ("Director"). The policies or certificates thereof shall provide that ten (10) days prior to cancellation or material change in the policy, notices of same shall be given to the Director either by overnight mail or personal delivery for all of the following stated insurance policies. All notices shall name the Contractor and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Director, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the Contractor shall upon notice to that effect from the County, promptly obtain a new policy, and submit the policy or the certificate as requested by the Director to the Office of Risk Management of the County for approval by the Director. Upon failure of the Contractor to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated.

Failure of the Contractor to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Contractor from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Contractor concerning indemnification.

All property losses shall be made payable to the "County of Westchester" and adjusted with the appropriate County personnel.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of Contractor's negligent acts or omissions under the Agreement or by virtue of the provisions of the labor law or other statute or any other reason, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Contractor until such time as the Contractor shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the Contractor maintains broader coverage and/or higher limits than the minimums identified herein, the County shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

2 The Contractor shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the Agreement):

- a) Workers' Compensation and Employer's Liability. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: <http://www.wcb.ny.gov>.

If the employer is self-insured for Workers' Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- b) Commercial General Liability Insurance with a combined single limit of \$1,000,000 (c.s.l) per occurrence and a \$2,000,000 aggregate limit naming the "County of Westchester" as an additional insured on a primary and non-contributory basis. This insurance shall include the following coverages:

- i. Premises - Operations.
- ii. Broad Form Contractual.
- iii. Independent Contractor and Sub-Contractor.
- iv. Products and Completed Operations.

- c) Commercial Umbrella/Excess Insurance: \$2,000,000 each Occurrence and Aggregate naming the "County of Westchester" as additional insured, written on a "follow the form" basis.

NOTE: Additional insured status shall be provided by standard or other endorsement that extends coverage to the County of Westchester for both on-going and completed operations.

All Contracts involving the use of explosives, demolition and/or underground work shall provide proof that XCU is covered.

- d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages and name the "County of Westchester" as additional insured:

- (i) Owned automobiles.
- (ii) Hired automobiles.
- (iii) Non-owned automobiles.



e) **Contractor's Professional Liability (Errors and Omissions).** The Contractor shall provide proof of such insurance. (Limits of \$1,000,000 per occurrence/\$3,000,000 aggregate).

3. All policies of the Contractor shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County is named as an insured, shall not apply to the County.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Contractor.

**SCHEDULE "D"**  
**QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES**  
**OWNED AND CONTROLLED BY WOMEN OR PERSONS OF COLOR**

As part of the County's program to encourage the meaningful and significant participation of business enterprises owned and controlled by persons of color or women in County contracts, and in furtherance of Section 308.01 of the Laws of Westchester County, completion of this form is required.

A "business enterprise owned and controlled by women or persons of color" means a business enterprise, including a sole proprietorship, limited liability partnership, partnership, limited liability corporation, or corporation, that either:

- 1.) meets the following requirements:
  - a. is at least 51% owned by one or more persons of color or women;
  - b. is an enterprise in which such ownership by persons of color or women is real, substantial and continuing;
  - c. is an enterprise in which such ownership interest by persons of color or women has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and
  - d. is an enterprise authorized to do business in this state which is independently owned and operated.
  
- 2.) is a business enterprise certified as a minority business enterprise ("MBE") or women business enterprise ("WBE") pursuant to Article 15-a of the New York State Executive Law and the implementing regulations, 9 New York Code of Rules and Regulations subtitle N Part 540 et seq., **OR**
  
- 3.) is a business enterprise certified as a small disadvantaged business concern pursuant to the Small Business Act, 15 U.S.C. 631 et seq., and the relevant provisions of the Code of Federal Regulations as amended.

Please note that the term "persons of color," as used in this form, means a United States citizen or permanent resident alien who is and can demonstrate membership of one of the following groups:

- (a) Black persons having origins in any of the Black African racial groups;
- (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race;
- (c) Native American or Alaskan native persons having origins in any of the original peoples of North America; or
- (d) Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.



1. Are you a business enterprise owned and controlled by women or persons of color in accordance with the standards listed above?

No  
 Yes

**Please note: If you answered "yes" based upon certification by New York State and/or the Federal government, official documentation of the certification must be attached.**

2. If you answered "Yes" above, please check off below whether your business enterprise is owned and controlled by women, persons of color, or both.

Women  
 Persons of Color (please check off below all that apply)

- Black persons having origins in any of the Black African racial groups
- Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race
- Native American or Alaskan native persons having origins in any of the original peoples of North America
- Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian sub-continent or the Pacific Islands

Name of Business Enterprise: Bronx River Alliance  
 Address: One Bronx River Parkway, Bronx, NY  
10462  
 Name and Title of person completing questionnaire: Maggie Greenfield,  
Executive Director  
 Signature: Maggie Greenfield

  
Notary Public



03/02/2022  
Date

**SCHEDULE "E"**

Contract #: C1001357

Name of Contractor: Bronx River Alliance, Inc.

**REQUIRED DISCLOSURE OF RELATIONSHIPS TO COUNTY**

*A potential County Contractor must complete this form as part of the proposed County contract.*

1.) Are any of the employees that the Contractor will use to carry out this contract also a County officer or employee, or the spouse, child, or dependent of a County officer or employee?

Yes \_\_\_\_\_ No

If yes, please provide details (attach extra pages, if necessary): \_\_\_\_\_

2.) Are any of the owners of the Contractor or their spouses a County officer or employee?

Yes \_\_\_\_\_ No

If yes, please provide details (attach extra pages, if necessary): \_\_\_\_\_

3.) Do any County officers or employees have an interest<sup>1</sup> in the Contractor or in any approved subcontractor that will be used for this contract?

Yes \_\_\_\_\_ No

If yes, please provide details (attach extra pages, if necessary): \_\_\_\_\_

By signing below, I hereby certify that I am authorized to complete this form for the Contractor.

Signature: \_\_\_\_\_

Maggie Greenfield

Name: Maggie Greenfield

Title: Executive Director

Date: 3/2/22

<sup>1</sup> "Interest" means a direct or indirect pecuniary or material benefit accruing to a County officer or employee, his/her spouse, child or dependent, whether as the result of a contract with the County or otherwise. For the purpose of this form, a County officer or employee shall be deemed to have an "interest" in the contract of:

- 1.) His/her spouse, children and dependents, except a contract of employment with the County;
- 2.) A firm, partnership or association of which such officer or employee is a member or employee;
- 3.) A corporation of which such officer or employee is an officer, director or employee; and
- 4.) A corporation of which more than five (5) percent of the outstanding capital stock is owned by any of the aforesaid parties.

**SCHEDULE "F"**  
**CRIMINAL BACKGROUND DISCLOSURE**  
**INSTRUCTIONS**

Pursuant to Executive Order 1-2008, the County is required to maintain a record of criminal background disclosure from all persons providing work or services in connection with any County contract, including leases of County-owned real property and licenses:

- a.) If any of the persons providing work or services to the County in relation to a County contract are not subject to constant monitoring by County staff while performing tasks and/or while such persons are present on County property pursuant to the County contract; and
- b.) If any of the persons providing work or services to the County in relation to a County contract may, in the course of providing those services, have access to sensitive data (for example SSNs and other personal/secure data); facilities (secure facilities and/or communication equipment); and/or vulnerable populations (for example, children, seniors, and the infirm).

In those situations, the persons who must provide a criminal background disclosure ("Persons Subject to Disclosure") include the following:

- a.) Consultants, Contractors, Licensees, Lessees of County-owned real property, their principals, agents, employees, volunteers or any other person acting on behalf of said Contractor, Consultant, Licensee, or Lessee who is at least sixteen (16) years old, including but not limited to Subconsultants, subcontractors, Sublessess, or Sublicensees who are providing services to the County, and
- b.) Any family member or other person, who is at least sixteen (16) years old, residing in the household of a County employee who lives in housing provided by the County located on County property.

Under Executive Order 1-2008, it is the duty of every County Consultant, Contractor, Licensee, or Lessee to inquire of each and every Person Subject to Disclosure and disclose whether they have been convicted of a crime or whether they are subject to pending criminal charges, and to submit this form with that information.<sup>1</sup> Accordingly, you are required to complete the attached Criminal Background Disclosure Form and Certification.

Please note that under no circumstances shall the existence of a language barrier serve as a basis for the waiver of or an exception from the disclosure requirements of Executive Order 1-2008. If translation services are required by the Consultant, Contractor, Licensee, or Lessee to fulfill this obligation, it shall be at the sole cost and expense of the Consultant, Contractor, Licensee, or Lessee.

Please also note that the conviction of a crime(s) and/or being subject to a pending criminal charge(s) will not automatically result in a denial of a person's right to work on a County

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<sup>1</sup> For these disclosures, a "crime" or "pending criminal charge" includes all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State.

contract, right to be on County property, or license, but may, if the County determines that the prior conviction(s) or pending criminal charge(s) create an unacceptable risk. However, if a person fails to list or falsifies any part of his/her conviction history or any pending criminal charge(s) for any reason, he/she may be prohibited from working or being on County property without any risk assessment. If it is later determined that a Person Subject to Disclosure failed to disclose a criminal conviction or pending criminal charge for any reason, his/her right to work on a County contract, be on County property, or license may be terminated at any time.

Please further note that, pursuant to Executive Order 1-2008, and subject to the applicable provisions of New York Correction Law §§ 752 and 753, the County has the right to bar a Person Subject to Disclosure from providing work or services to the County or from being on County property if any such person has:

- a.) A conviction of a crime(s);
- b.) A pending criminal proceeding for a crime(s); or
- c.) Refused to answer questions concerning his/her criminal background

Please finally note that any failure by a County Consultant, Contractor, Licensee, or Lessee to comply with the disclosure requirements of Executive Order 1-2008 may be considered by the County to be a material breach and shall be grounds for immediate termination by the County of the related County contract.

### Exemptions

Executive Order 1-2008 exempts from the aforementioned disclosure requirements Persons Subject to Disclosure:

- a.) for whom the County has already conducted a background check and issued a security clearance that is in full force and effect; and
- b.) for whom another state or federal agency having appropriate jurisdiction has conducted a security and/or background clearance or has implemented other protocols or criteria for this purpose that apply to the subject matter of a County contract that is in full force and effect.

If you are claiming an exemption for one or more Persons Subject to Disclosure, you must notify the Procuring Officer<sup>2</sup>. The Procuring Officer will then determine whether the Person(s) Subject to Disclosure are actually exempt, and provide written notification of his/her determination. If the Procuring Officer determines that a Person Subject to Disclosure is not exempt, the Procuring Officer will notify you of that determination, and you will have to include disclosures for that person on your Criminal Background Disclosure Form and Certification.

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<sup>2</sup> Procuring Officer shall mean the head of the department or the individual or individuals authorized by the head(s) of the department(s) undertaking the procurement and with respect to those matters delegated to the Bureau of Purchase and Supply pursuant to Section 161.11(a) of the Laws of Westchester County, the Purchasing Agent.

**Subconsultants, Subcontractors, Sublessees, or Sublicensees**

Under Executive Order 1-2008, it is your duty to ensure that any and all approved subconsultants, subcontractors, sublessees, or sublicensees complete and submit the attached Criminal Background Disclosure Form and Certification for all of their respective Persons Subject to Disclosure. This must be done before such a subconsultant, subcontractor, sublessees, or sublicensees can be approved to perform work on a contract.

**New Persons Subject to Disclosure**

Under Executive Order 1-2008, you have a **CONTINUING OBLIGATION** to maintain the accuracy of the Criminal Background Disclosure Form and Certification (and any accompanying documentation) for the duration of this contract, including any amendments or extensions thereto. Accordingly, it is your duty to complete and submit an updated Criminal Background Disclosure Form and Certification whenever there is a new Person Subject to Disclosure for this contract. **NO NEW PERSON SUBJECT TO DISCLOSURE SHALL PERFORM WORK OR SERVICES OR ENTER ONTO COUNTY PREMISES UNTIL THE UPDATED CRIMINAL BACKGROUND DISCLOSURE FORM AND CERTIFICATION IS FILED WITH THE PROCURING OFFICER.** You shall also provide the County with any other updates that may be necessary to comply with the disclosures required by Executive Order 1-2008.

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*PLEASE CONTINUE TO THE*

*Criminal Background Disclosure Form and Certification*

*BEGINNING ON THE NEXT PAGE*

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Contract #: C1001357

Name of Consultant, Contractor, Lessee, or Licensee: Bronx River Alliance, Inc.

**CRIMINAL BACKGROUND DISCLOSURE**  
**FORM AND CERTIFICATION**

If this form is being completed by a subconsultant, subcontractor, sublessee, or sublicensee, please consider all references in this form to "consultant, contractor, lessee, or licensee" to mean "subconsultant, subcontractor, sublessee, or sublicensee" and check here: \_\_\_\_\_

I, Maggie Greenfield, certify that I am a principal or a  
(Name of Person Signing Below)

representative of the Consultant, Contractor, Lessee, or Licensee and I am authorized to complete and execute this Criminal Background Disclosure Form and Certification. I certify that I have asked each Person Subject to Disclosure the following questions:

- **Have you or your company ever been convicted of a crime (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State) including, but not limited to, conviction for commission of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property?**
- **Are you or your company subject to any pending criminal charges (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State)?**

I certify that the names and titles of Persons Subject to Disclosure who refused to answer either of the questions above are:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

(If more space is needed, please attach separate pages labeled "REFUSED to Answer - Continued.")



I certify that the names and titles of Persons Subject to Disclosure who answered "Yes" to either of the questions above are:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

(If more space is needed, please attach separate pages labeled "YES Answers - Continued.")

Each Person Subject to Disclosure listed above who has either been convicted of a crime(s) and/or is subject to a pending criminal charge(s) must answer additional questions. Those questions are below.

**A Person Subject to Disclosure who has been convicted of a crime(s) must respond to the following (please attach separate pages with responses for each person, with their name and title):**

- 1.) Describe the reason for being on County property if applicable, identify the specific duties and responsibilities on this project which you intend to perform for the County, including but not limited to, access to sensitive data and facilities and access to vulnerable populations.
- 2.) Please list all criminal convictions along with a brief description of the crime(s) (including all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State).
- 3.) Please provide the date and place of each conviction.
- 4.) Please provide your age at the time of each crime for which you were convicted.
- 5.) Please provide the legal disposition of each case.
- 6.) Please provide any information either produced by yourself or someone on your behalf in regards to your rehabilitation and good conduct.

**A Person Subject to Disclosure who is subject to a pending criminal charge(s) must respond to the following (please attach separate pages with responses for each person, with their name and title):**

- 1.) Describe the reason for being on County property and if applicable, identify the specific duties and responsibilities on this project which you intend to perform for the County, including but not limited to, access to sensitive data and facilities and access to

- vulnerable populations.
- 2.) Please identify all pending criminal charges (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State).
  - 3.) Please briefly describe the nature of the pending charges and the date upon which it is alleged that a crime was committed.

I hereby certify that all of the information provided herein (and in any and all attachments) is true and accurate and that all disclosures required by Executive Order 1-2008 and this Criminal Background Disclosure Form and Certification have been completed. By my signature below, I hereby affirm that all of the facts, statements and answers contained herein (and in any and all attachments) are true and correct. I understand that providing false or incomplete information or withholding by omission or intention pertinent information will be cause for refusing further consideration of my being utilized under this contract.

**It is understood and agreed that no Person Subject to Disclosure shall perform work or services or enter onto County property until this required Criminal Background Disclosure Form and Certification is filed with the Procuring Officer.**

**It is understood and agreed that to the extent that new Persons Subject to Disclosure are proposed to perform work or provide services under this contract after filing of this Criminal Background Disclosure Form and Certification with the Procuring Officer, such new Persons Subject to Disclosure shall not perform work or provide services or enter into County property until an updated Criminal Background Disclosure Form and Certification has been filed with the Procuring Officer.**

**It is further understood and agreed that the consultant, contractor, lessee, or licensee has a continuing obligation to maintain the accuracy of the Criminal Background Disclosure Form and Certification for the duration of this contract, including any amendments or extensions thereto, and shall provide any updates to the information to the County as necessary to comply with the requirements of Executive Order 1-2008.**

Signature: Maggie Greenfield

Name: Maggie Greenfield

Title: Executive Dir.

Date: 3/2/22

[Signature]  
Notary Public

03/02/2022  
Date



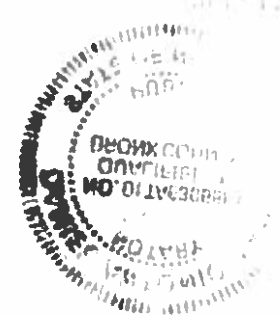
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**SCHEDULE "G"**  
**CERTIFICATION REGARDING BUSINESS DEALINGS**  
**WITH NORTHERN IRELAND**

A. The Contractor and any individual or legal entity in which the Contractor holds a ten percent (10%) or greater ownership interest and any individual or legal entity that holds a ten percent (10%) or greater ownership interest in the Contractor (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Principles.

B. For purposes of this Certification, "MacBride Principles" shall mean those principles relating to nondiscrimination in employment and freedom of workplace opportunity which require employers doing business in Northern Ireland to:

(1) increase the representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical and technical jobs;

(2) take steps to promote adequate security for the protection of employees from underrepresented religious groups both at the workplace and while traveling to and from work;

(3) ban provocative religious or political emblems from the workplace;

(4) publicly advertise all job openings and make special recruitment efforts to attract applicants from underrepresented religious groups;

(5) establish layoff, recall and termination procedures which do not in practice favor a particular religious group;

(6) abolish all job reservations, apprenticeship restrictions and differential employment criteria which discriminate on the basis of religion;

(7) develop training programs that will prepare substantial numbers of current employees from underrepresented religious groups for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of workers from underrepresented religious groups;

(8) establish procedures to assess, identify and actively recruit employees from underrepresented religious groups with potential for further advancement; and

(9) appoint a senior management staff member to oversee affirmative action efforts and develop a timetable to ensure their full implementation.

C. For purposes of this Certification, "Northern Ireland" shall be understood to be the six counties partitioned from the Irish Province of Ulster, and administered from London and/or from Stormont.

D. The Contractor agrees that the warranties and representation in paragraph "A" are material conditions of this Agreement. If the County receives information that the Contractor is in violation of paragraph "A," the County shall review such information and give the Contractor opportunity to respond. If the County finds that such a violation has occurred, the County may declare the Contractor in default, and/or terminate this Agreement. In the event of any such termination, the County may procure the supplies, services or work from another source in accordance with applicable law. The Contractor shall pay to the County the difference between the contract price for the uncompleted portion of this Agreement and the cost to the County of

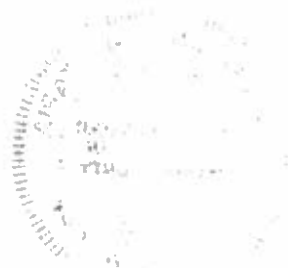
completing performance of this Agreement either by itself or by engaging another Contractor. If this is a contract other than a construction contract, the Contractor shall be liable for the difference in price if the cost of procurement from another source is greater than what the County would have paid the Contractor plus any reasonable costs the County incurs in any new procurement and if this is a construction contract, the County shall also have the right to hold the Contractor in partial or total default in accordance with the default provisions of this Agreement. In addition, the Contractor may be declared not to be a responsible bidder or proposer for up to three (3) years, following written notice to the Contractor, giving the Contractor the opportunity for a hearing at which the Contractor may be represented by counsel. The rights and remedies of the County hereunder shall be in addition to, and not in lieu of, any rights and remedies the County has pursuant to this Agreement or by operation of law or in equity.

Agreed:

Name of Contractor Bronx River Alliance

Signature (Authorized Representative): Maggie Greenfield

Name: Maggie Greenfield Title: Executive Director Date: 3/2/22



**SCHEDULE "H"**  
**For Informational Purposes Only**  
**QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES**  
**OWNED AND CONTROLLED BY**  
**SERVICE-DISABLED VETERANS**

The County believes it is a laudable goal to provide business opportunities to veterans who were disabled while serving our country, and wants to encourage the participation in County contracts of certified business enterprises owned and controlled by service-disabled veterans. As part of the County's program to encourage the participation of such business enterprises in County contracts, and in furtherance of Article 17-B of the New York State Executive Law, we request that you answer the questions listed below.

The term "Certified Service-Disabled Veteran-Owned Business" shall mean a business that is a certified service-disabled veteran-owned business enterprise under the New York State Service-Disabled Veteran-Owned Business Act (Article 17-B of the Executive Law).

1. Are you a business enterprise that is owned and controlled by a service-disabled veteran in accordance with the standards listed above?

No  
 Yes

2. Are you certified with the State of New York as a Certified Service-Disabled Veteran-Owned Business?

No  
 Yes

3. If you are certified with the State of New York as a Certified Service-Disabled Veteran-Owned Business, please attach a copy of the certification.

Name of Firm/Business Enterprise: Bronx River Alliance

Address: One Bronx River Parkway Bronx, NY 10462

Name/Title of Person completing Questionnaire: Maggie Greenfield, Executive Director

Signature: Maggie Greenfield

STATE OF NEW YORK )  
COUNTY OF The Bronx ) ss.:



[Signature]

Notary Public

Date: 03/02/2022

## Electronic Funds Transfer (EFT) Vendor Direct Payment Authorization Form

### GENERAL INSTRUCTIONS

Please complete both sections of the Vendor Direct Payment Authorization Form and forward the completed form (along with a voided check for the account to which you want your payments credited) to: Westchester County Department of Finance, 148 Martine Ave, Room 720, White Plains, NY 10601, Attention: Vendor Direct. Please see item 14 below regarding attachment of a voided check.

### Section I - VENDOR INFORMATION

1. Provide the name of the vendor as it appears on the W-9 form.
2. Enter the vendor's Taxpayer ID number or Social Security Number as it appears on the W-9 form.
3. Enter the vendor's complete primary address (not a P.O. Box).
4. Provide the name and telephone number of the vendor's contact person.
5. Enter the business e-mail address for the remittance notification. **THIS IS VERY IMPORTANT.** This is the e-mail address that we will use to send you notification and remittance information two days prior to the payment being credited to your bank account. We suggest that you provide a group mailbox (if applicable) for your e-mail address. You may also designate multiple e-mail addresses.
6. Please have an authorized Payee/Company official sign and date the form and include his/her title.

### Section II - FINANCIAL INSTITUTION INFORMATION

7. Provide bank's name.
8. Provide the complete address of your bank.
9. Enter your bank's 9 digit routing transit number.
10. Indicate the type of account (check one box only).
11. Enter the vendor's bank account number.
12. Enter the title of the vendor's account.
13. Provide the name and telephone number of your bank contact person.
14. If you are directing your payments to a Savings Account OR you can not attach a voided check for your checking account, this line needs to be completed and signed by an authorized bank official. **IF YOU DO ATTACH A VOIDED CHECK FOR A CHECKING ACCOUNT, YOU MAY LEAVE THIS LINE BLANK.**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/1/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

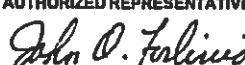
<b>PRODUCER</b> John M. Glover Agency P.O. Box 700 Norwalk CT 06852	<b>CONTACT NAME:</b> Janice Caldararo <b>PHONE (A/C No. Ext):</b> 914-829-9077 <b>E-MAIL ADDRESS:</b> jcaldararo@johnmglover.com	<b>FAX (A/C No):</b> 203-274-9471
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> Bronx River Alliance Inc. 1 Bronx River Parkway Bronx NY 10462	<b>INSURER A:</b> Philadelphia Indemnity Insurance Company	
	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

**COVERAGES**      **CERTIFICATE NUMBER: 474227999**      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	PHPK2350282	1/5/2022	1/5/2023	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
							MED EXP (Any one person)	\$ 5,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
							Host/Liquor Liability	\$ Included
A	<input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			PHPK2350282	1/5/2022	1/5/2023	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			PHUB793898	1/5/2022	1/5/2023	EACH OCCURRENCE	\$ 2,000,000
							AGGREGATE	\$ 2,000,000
								\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE	
							OTHER	
							E.L. EACH ACCIDENT	\$
							E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 Re: Program Name: Community Water Quality Monitoring Program (Project Water DROP)  
 Locations:  
 Yonkers- Bronx R Pkwy between McLean & Wakefield Aves  
 Yonkers- Muskrat Cove outfall  
 Bronxville- Near Grassy Sprain Brook confluence  
 Bronxville - Sprain Brook at Palmer & Millard Ave  
 Eastchester- Bronx River Parkway at Leewood Drive  
 Greenburgh- Greenacres Avenue  
 See Attached...

<b>CERTIFICATE HOLDER</b>  County of Westchester 450 Saw Mill River Road Ardsley, NY 10502	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
--	--

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ACORD 25 (2016/03)

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THIS CERTIFICATE SUPERSEDES PREVIOUSLY ISSUED CERTIFICATE





**ADDITIONAL REMARKS SCHEDULE**

<b>AGENCY</b> John M. Glover Agency		<b>NAMED INSURED</b> Bronx River Alliance Inc. 1 Bronx River Parkway Bronx NY 10462	
<b>POLICY NUMBER</b>		<b>EFFECTIVE DATE:</b>	
<b>CARRIER</b>	<b>NAIC CODE</b>		

**ADDITIONAL REMARKS**

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**  
**FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE**

White Plains- Westchester County Center  
 Mount Pleasant- S Kenslco Ave at Pat Henry Field  
 Mount Pleasant- Highclere Lane

- Dates:  
 May 30  
 June 13  
 June 27  
 July 11  
 July 25  
 August 8  
 August 22  
 September 5  
 September 19  
 October 3  
 October 17  
 October 31

Certificate holder is included as additional insured on a primary & non-contributory basis under the Commercial General Liability and Automobile Liability. The Umbrella policy is follow form.



New York State Insurance Fund

PO Box 66699, Albany, NY 12206

| nysif.com

### CERTIFICATE OF WORKERS' COMPENSATION INSURANCE (RENEWED)



SCAN TO VALIDATE AND SUBSCRIBE

\*\*\*\*\* 753001587  
BRONX RIVER ALLIANCE INC  
ONE BRONX RIVER PARKWAY  
BRONX NY 10462

<b>POLICYHOLDER</b> BRONX RIVER ALLIANCE INC ONE BRONX RIVER PARKWAY BRONX NY 10462
--

<b>CERTIFICATE HOLDER</b> WESTCHESTER COUNTY DEPARTMENT OF PLANNING 148 MARTINE AVENUE WHITE PLAINS NY 10601
--

<b>POLICY NUMBER</b> X1371 670-9	<b>CERTIFICATE NUMBER</b> 516117	<b>POLICY PERIOD</b> 11/08/2021 TO 11/08/2022	<b>DATE</b> 3/15/2022
-------------------------------------	-------------------------------------	--	--------------------------

THIS IS TO CERTIFY THAT THE POLICYHOLDER NAMED ABOVE IS INSURED WITH THE NEW YORK STATE INSURANCE FUND UNDER POLICY NO. 1371 670-9, COVERING THE ENTIRE OBLIGATION OF THIS POLICYHOLDER FOR WORKERS' COMPENSATION UNDER THE NEW YORK WORKERS' COMPENSATION LAW WITH RESPECT TO ALL OPERATIONS IN THE STATE OF NEW YORK, EXCEPT AS INDICATED BELOW, AND, WITH RESPECT TO OPERATIONS OUTSIDE OF NEW YORK, TO THE POLICYHOLDER'S REGULAR NEW YORK STATE EMPLOYEES ONLY.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS NOR INSURANCE COVERAGE UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY.

THIS POLICY IS CANCELLED EFFECTIVE 04/01/2022.

BY CAUSING THIS CERTIFICATE TO BE ISSUED TO THE CERTIFICATE HOLDER, THE POLICYHOLDER UNDERTAKES TO PROVIDE THE CERTIFICATE HOLDER 30 CALENDAR DAYS' NOTICE OF ANY CANCELLATION OF THE POLICY.

NEW YORK STATE INSURANCE FUND

DIRECTOR, INSURANCE FUND UNDERWRITING

VALIDATION NUMBER: 743555688

- B. [2010 Intermunicipal Watershed Management Plan](#)  
<https://bronxriver.org/resource/bronx-river-intermunicipal-watershed-plan>
- C. [Bronx River Riparian Invasive Plant Management Plan](#)  
<https://www.nycgovparks.org/pagefiles/53/FINAL-bronx-river-riparian-invasive-plant-management-plan-april-30-2012.pdf>
- D. [Westchester County Geomorphic Study Volume 1](#)  
<https://bronxriver.org/wp-content/uploads/2022/06/VOLUME-I-Bronx-River-Corridor-Study-and-Management-Plan.pdf>
- E. [Westchester County Geomorphic Study Volume 2](#)  
<https://bronxriver.org/wp-content/uploads/2022/06/VOLUME-II-Bronx-River-Corridor-Study-and-Management-Plan.pdf>
- F. **Non-Collusion Statement**
- G. **EEO Policy Statement**
- H. **Statement on Sexual Harassment**
- I. **Workforce Utilization Report**
- J. **MWBE Utilization Plan**

# **ATTACHMENT F**

## **NON-COLLUSION STATEMENT**

# Statement of Non-collusion in Bids to the State

## 1.

Every bid hereafter made to the state or any public department, agency or official thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the bidder and affirmed by such bidder as true under the penalties of perjury: Non-collusive bidding certification. "(a) By submission of this bid, each bidder and each person signing on behalf of any bidder 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 knowledge and belief:

### (1)

The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

### (2)

Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

### (3)

No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition." (a-1) Notwithstanding the foregoing, the statement of non-collusion may be submitted electronically in accordance with the provisions of subdivision seven of section one hundred sixty-three of the state finance law.

### (b)

A bid shall not be considered for award nor shall any award be made where (a) (1) (2) and (3) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where (a) (1) (2) and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the state, public department or agency to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition. The fact that a bidder (a) has published price lists, rates, or tariffs

covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or

(c)

has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of subparagraph one (a).

**2.**

Any bid hereafter made to the state or any public department, agency or official thereof by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule or regulation, and where such bid contains the certification referred to in subdivision one of this section, shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.

# **ATTACHMENT G**

## **EEO POLICY STATEMENT**

## EEO Policy Statement

I, \_\_\_\_\_, am the authorized representative of \_\_\_\_\_.

Name of Representative Name of Contractor/Service Provider

I hereby certify that \_\_\_\_\_ will abide by the equal employment

Name of Contractor/Service Provider

opportunity (EEO) policy statement provisions outlined below.

i (i) The Contractor will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on Contracts relating to SRF projects.

ii (ii) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the Contract relating to this SRF project, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

i (iii) 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.

i (iv) The Contractor shall comply with the provisions of the Human Rights Law (Article 15 of the Executive Law), including those relating to non-discrimination on the basis of prior criminal conviction and prior arrest, and with all other State and federal statutory and constitutional non-discrimination provisions, including Titles VI and VII of the Civil Rights Act of 1964, 40 CFR Part 7, 41 CFR Part 60-1 Subpart A, and 41 CFR Part 60-4. The Contractor and Subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status.

i (v) The Contractor will include the provisions of subdivisions (i) through (iv) in every Subcontract in such a manner that the requirements of these subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.

---

Contractor/Service Provider Representative



# **ATTACHMENT H**

## **STATEMENT ON SEXUAL HARASSMENT**

# Statement on Sexual Harassment, in Bids.

**Universal Citation:** [NY State Fin L § 139-L \(2021\)](#)

§ 139-1. Statement on sexual harassment, in bids. 1. (a) Every bid hereafter made to the state or any public department or agency thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the bidder and affirmed by such bidder as true under the penalty of perjury:

"By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law."

(b) Every bid hereafter made to the state or any public department or agency thereof, where competitive bidding is not required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, may contain, at the discretion of the department, agency or official, the certification required pursuant to paragraph (a) of this subdivision.

2. Notwithstanding the foregoing, the statement required by paragraph (a) of subdivision one of this section may be submitted electronically in accordance with the provisions of subdivision seven of section one

hundred sixty-three of this chapter.

3. A bid shall not be considered for award nor shall any award be made to a bidder who has not complied with subdivision one of this section; provided, however, that if the bidder cannot make the foregoing certification, such bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor.

4. Any bid hereafter made to the state or any public department, agency or official thereof, by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where such bid contains the statement required by subdivision one of this section, shall be deemed to have been authorized by the board of directors of such bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the corporation.

# **ATTACHMENT I**

## **WORKFORCE UTILIZATION REPORT**



# **ATTACHMENT J**

## **MWBE UTILIZATION PLAN**



INSTRUCTIONS: This form MUST be submitted with any bid, proposal, or proposed negotiated contract prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each NYS certified Minority and Women-owned Business Enterprise (M/WBE), including the offeror if a NYS certified MWBE, the MWBE goal and percent, and estimated (or actual if known) annual dollar value under the contract.

Will there be M/WBE participation for services provided under this contract? YES [ ] NO [ ]

Contract Overview

Offeror/Contractor Name: Telephone: SFS Vendor ID: Address Federal ID No: ID: City, State, Zip: Solicitation No:

Table with 4 columns: NYS Certified M/WBE, MWBE Certification, Description of Scope of Work, and MWBE Goals and Est. Annual Dollar Value. Contains two rows for contractor details.

[ ] VENDOR CERTIFICATION: I hereby affirm that the information supplied in this utilization plan is true and correct.

SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR/CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 142, AND THE ABOVE REFERENCED SOLICITATION.

(See Page 2 Required Letter Notice to Identified MWBEs)

Signature: Print Name: Title: Date: Telephone No: Email:

## M/WBE UTILIZATION PLAN

### FOR AUTHORIZED USE ONLY

Utilization Plan Approved:  Y  N Date: \_\_\_\_\_

Notice of Deficiency Issued:  Y  N Date: \_\_\_\_\_

Notice of Acceptance Issued:  Y  N Date: \_\_\_\_\_

Reviewed By: \_\_\_\_\_ Date: \_\_\_\_\_

Comment(s): \_\_\_\_\_

### Required Letter Notice to Identified MWBEs:

To the extent the Contract has MWBE goals, and the Contractor is submitting to ITS an MWBE Utilization Form MWBE-100, then upon final award of the Contract or completion of the procurement's restricted period, and prior to the commencement of the Contract, the Contractor must email a letter in the form stated below to each and every MWBE firm that Contractor has identified on its approved MWBE-100 Utilization Plan. The Contractor is required to simultaneously provide a copy of each such e-mailed letter to ITS at [supplierdiversity@its.ny.gov](mailto:supplierdiversity@its.ny.gov). Also, to the extent Contractor's utilization plans change or additional certified MWBE Subcontractors are added, Contractor must send such an e-mail letter, again copying ITS, to each additional MWBE vendor added to the utilization plan for the contract:

Dear [Enter name of NYS certified MWBE Firm]:

Please be advised that you have been listed as an MWBE subcontractor on a utilization plan submitted by our company [enter name of awarded prime Contractor] who has been tentatively awarded the following contract with the NYS Office of Information Technology Services (ITS): [enter name and number of Contract awarded].

Being listed on our utilization plan does not guarantee your engagement on this contract. Such concerns are managed by the selected vendor along with ITS. Please be in contact with [enter name of awarded prime Contractor] to discuss potential next steps.

Should you have any MWBE questions or other questions regarding this contract, please reach out to the NYS Office of Information Technology Services (ITS) and its MWBE liaison using the following contact information:

NYS Office of Information Technology Services  
Finance - Vendor Sourcing and Management Organization  
Empire State Plaza, PO Box 2062  
Albany, New York 12220-0062

Telephone Number: (518) 473-9341

Contract questions, in general: [contracts@its.ny.gov](mailto:contracts@its.ny.gov)

MWBE questions, specifically: [supplierdiversity@its.ny.gov](mailto:supplierdiversity@its.ny.gov)

Sincerely,

[enter signature]