

STATE OF NEW YORK VENDOR AGREEMENT FACE PAGE

<p>STATE AGENCY:</p> <p>NYS Department of State One Commerce Plaza 99 Washington Avenue – Suite 1010 Albany, NY 12231</p>	<p>BUSINESS UNIT/DEPT ID: DOS01/3800000</p> <p>CONTRACT NUMBER:</p> <p>CONTRACT TYPE:</p> <p><input checked="" type="checkbox"/> Multi-Year Agreement <input type="checkbox"/> Simplified Renewal Agreement <input type="checkbox"/> Fixed Term Agreement</p>
<p>CONTRACTOR SFS PAYEE NAME:</p>	<p>TRANSACTION TYPE:</p> <p><input checked="" type="checkbox"/> New <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment</p>
<p>CONTRACTOR DOS INCORPORATED NAME:</p>	<p>PROJECT NAME:</p>
<p>CONTRACTOR IDENTIFICATION NUMBERS:</p> <p>NYS VENDOR ID Number:</p> <p>Federal Tax ID Number:</p> <p>DUNS Number (if applicable):</p>	<p>AGENCY IDENTIFIER:</p> <p align="center">22-DRINYF-20</p>
	<p>CFDA NUMBER (Federally Funded Grants Only):</p>
<p>CONTRACTOR PRIMARY MAILING ADDRESS:</p> <p>CONTRACTOR PAYMENT ADDRESS: <input type="checkbox"/> Check if same as primary mailing address</p> <p>CONTRACTOR MAILING ADDRESS <input type="checkbox"/> Check if same as primary mailing address</p>	<p>CONTRACTOR STATUS:</p> <p><input type="checkbox"/> For Profit <input type="checkbox"/> Individual <input type="checkbox"/> Not-for-Profit <input type="checkbox"/> Other _____</p> <p>Charities Registration Number:</p> <p>Exemption Status/Code:</p> <p><input type="checkbox"/> Sectarian Entity</p>

STATE OF NEW YORK VENDOR AGREEMENT FACE PAGE

<p>CURRENT CONTRACT TERM:</p> <p>FROM: _____ TO: _____</p> <p>CURRENT CONTRACT PERIOD:</p> <p>FROM: _____ TO: _____</p> <p>AMENDED TERM:</p> <p>FROM: _____ TO: _____</p> <p>AMENDED PERIOD:</p> <p>FROM: _____ TO: _____</p>	<p>CONTRACT FUNDING AMOUNT: <i>(Multi-year – enter total projected amount of the contract; Fixed Term/Simplified Renewal – enter current period amount)</i></p> <p>CURRENT: _____</p> <p>AMENDED: _____</p> <p>FUNDING SOURCES:</p> <p style="margin-left: 40px;"> <input checked="" type="checkbox"/> State <input type="checkbox"/> Federal <input type="checkbox"/> Other </p>			
<p>FOR MULTI-YEAR AGREEMENTS ONLY – CONTRACT PERIOD AND FUNDING AMOUNT: (Out years represent projected funding amounts)</p>				
#	CURRENT PERIOD	CURRENT AMOUNT	AMENDED PERIOD	AMENDED AMOUNT
1				
2				
3				
4				
5				
<p>ATTACHMENTS PART OF THIS AGREEMENT:</p> <p><input checked="" type="checkbox"/> Appendix A: Standard Clauses as required by the Attorney General for all State contracts</p> <p><input checked="" type="checkbox"/> Appendix B: Budget</p> <p><input checked="" type="checkbox"/> Appendix C: Program Work Plan</p> <p><input checked="" type="checkbox"/> Appendix D: Payment and Reporting Schedule</p> <p><input checked="" type="checkbox"/> Appendix X: Modification Agreement Form</p>				

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

CONTRACTOR:

[Name and Address]

By: _____

Printed Name

Title: _____

Date: _____

STATE AGENCY:

NYS Department of State
One Commerce Plaza
99 Washington Avenue – Suite 1010
Albany, NY 12231

By: _____

Printed Name

Title: _____

Date: _____

STATE OF NEW YORK

COUNTY OF _____

On the ____ day of _____, _____, before me personally appeared _____, to me known, who being by me duly sworn, did depose and say that they reside at _____, that they are the _____ of the _____, the contractor described herein which executed the foregoing instrument; and that they signed their name thereto as authorized by the contractor name on the face page of this Master Contract.

(Notary) _____

ATTORNEY GENERAL'S SIGNATURE

By: _____

Printed Name

Title: _____

Date: _____

STATE COMPTROLLER'S SIGNATURE

By: _____

Printed Name

Title: _____

Date: _____

This AGREEMENT, by and between the New York State Department of State, with its principal offices at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231 (hereinafter referred to as DOS) and [name] with its principal office at [address] (hereinafter referred to as CONTRACTOR).

WITNESSETH:

WHEREAS, the STATE has the authority to regulate and provide funding for the establishment and operation of program services and desires to contract with skilled parties possessing the necessary resources to provide such services; and

WHEREAS, the CONTRACTOR is ready, willing and able to provide such program services and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services required pursuant to the terms of this AGREEMENT;

NOW THEREFORE, in consideration of the mutual covenants and considerations herein set forth, the parties hereto agree as follows:

ARTICLE I – CONDITIONS OF THE AGREEMENT

- 1.1 This AGREEMENT incorporates the Face Page attached, the Vendor Contract, and the marked appendices identified on the Face Page hereof in the following order of precedence, except that Appendix A (Standard Clauses as required by the Attorney General for all State contracts) takes precedence over all other parts of the AGREEMENT:
 - Appendix A, Standard Clauses (dated October 2019) as required by the Attorney General for all State contracts
 - Appendix X – Modification Agreement Form
 - The body of the Contract
 - Appendix B – Budget
 - Appendix C – Program Work Plan
 - Appendix D – Payment and Reporting Schedule
- 1.2 The period of this AGREEMENT shall be as specified on the Face Page hereof. Should funding become unavailable, this AGREEMENT may be suspended until funding becomes available. In such event the STATE shall notify the CONTRACTOR immediately of learning of such unavailability of funds, however, any such suspension shall not be deemed to extend the term of this AGREEMENT beyond the end date specified on the Face Page hereof.
- 1.3 Funding for the entire contract period shall not exceed the amount specified on the Face Page hereof. To modify the AGREEMENT, the parties mutually agree to record, in writing, the terms of such modification and to revise or complete the Appendix X and all the appropriate attachments in conjunction therewith. In addition, such modification may be subject to the approval of the Attorney General and Office of the State Comptroller before it shall become valid, effective and binding upon the STATE.

- 1.4 The CONTRACTOR shall meet the program objectives summarized in the Budget and Program Work Plan in accordance with: provisions of the AGREEMENT; relevant laws, rules and regulations, administrative and fiscal guidelines; and where applicable, operating certificates for facilities or licenses for an activity or program, and conditions of applicable permits, administrative orders and judicial orders.
- 1.5 Invoices shall contain the contract number listed on the Face Page and be addressed to the NYS Department of State, One Commerce Plaza, 99 Washington Avenue, Suite 1110, Albany, NY 12231. Such invoices shall be submitted quarterly via email to dos.sm.fiscal.cau@dos.ny.gov with the following subject line: [contract number, name, funding source]. All invoices submitted for reimbursement should include a detailed written progress report, charges for the billing period, project activity for the next period, outstanding issues, financial status and schedule.
- 1.6 This AGREEMENT cannot be assigned, transferred, conveyed, sublet or otherwise disposed of in any way without previous consent in writing to the CONTRACTOR and the Office of the State Comptroller. The CONTRACTOR may subcontract with those SUBCONTRACTOR entities listed in Appendices B and C however all subcontracts shall contain provisions specifying that the work performed by the subcontractor must be in accordance with the terms of this Agreement and its Appendices.
- 1.7 This agreement or amendments thereto shall be deemed to be fully executed when approved by the Office of the State Comptroller.

ARTICLE II – GENERAL

- 2.1. For the purposes of this Agreement, the terms "State," "Agency" and "Department" are interchangeable, unless the context requires otherwise. In addition, the terms "Agreement" and "Contract" are interchangeable, unless the context requires otherwise.
- 2.2 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 State to provide additional time to complete the Project and 3) an extension agreement is approved in accordance with Section ID of the Agreement.
- 2.3 The Department shall not be liable for expenses of any kind incurred in excess of the State Funds as set forth on the Face Page and shall not be responsible for seeking additional appropriations or other sources of funds for the Project.
- 2.4 The Contractor shall perform all services to the satisfaction of the Department. The Contractor shall provide all services and meet the program objectives described in Appendix B in accordance with: provisions of this Agreement; relevant State, federal and local laws, rules and regulations, administrative and fiscal guidelines; where applicable, operating certificates for facilities or licenses for an activity or program, and conditions of applicable permits, administrative orders and judicial orders.
- 2.5 The Contractor agrees to proceed expeditiously with the Project and to complete the Project in accordance with the timetable set forth in the Program Work Plan (Appendix

C) as well as with the conditions of any administrative orders, or judicial orders and this Agreement.

ARTICLE III - CHANGES TO THIS AGREEMENT

- 3.1 Any amendment, change, extension, revision or discharge of this Agreement, in whole or part, shall not be invalid or unenforceable because of lack of insufficiency of consideration; provided, however, that such amendment, change, extension, revision or discharge is in writing and executed by the parties.
- 3.2 To modify any terms of this Agreement within an existing period, the parties shall revise or complete an Appendix X and the appropriate appendix form(s), which may be subject to approval of the Department and Office of the State Comptroller.

ARTICLE IV – INSURANCE REQUIREMENTS

- 4.1 Prior to the commencement of the work, the CONTRACTOR shall file with the STATE, Certificates of Insurance evidencing compliance with all requirements contained in this AGREEMENT. Such certificate shall be of form and substance acceptable to the STATE.
- 4.2 Acceptance and/or approval by the STATE does not and shall not be construed to relieve CONTRACTOR of any obligations, responsibilities or liabilities under the AGREEMENT.
- 4.3 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 of State, 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 insured thereunder.
- 4.4 The CONTRACTOR shall be solely responsible for the payment of all deductibles to which such policies are subject.
- 4.5 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.
- 4.6 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 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.

- 4.7 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.
- 4.8 Unless the CONTRACTOR is self-insured or terms are otherwise inapplicable, 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 of 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.
- Workers Compensation, Employers Liability, and Disability Benefits as required by New York State. Acceptable forms include the following:
 - Proof of Workers' Compensation Coverage (Form C-105.2, U-26.3, SI-12, GSI-105.2 or CE-200).
 - Proof of Disability Coverage (Form DB-120.1, DB-155, or CE-200).
 - ACORD forms are not acceptable proof of coverage.
 - Comprehensive Automobile Liability Insurance with a limit of \$1,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles.
 - CONTRACTOR shall submit certificates of proof of active insurance (naming NYS Department of State, One Commerce Plaza, 99 Washington Avenue - Suite 1110, Albany, NY 12231) as the certificate holder.
 - An Owner's Protective Liability Policy with limits of \$1,000,000 in the name of the Contractor.
- 4.9 The Contractor shall require that any subcontractors hired, carry insurance with the same limits and provisions provided herein.

ARTICLE V – VENDOR RESPONSIBILITY DETERMINATION

- 5.1 Vendor/Contractor hereby acknowledges that the Vendor Responsibility Questionnaire and certification is made a part of this contract by reference hereto and that any misrepresentation of fact in the Questionnaire and attachments, or in any contractor responsibility information that may be requested by the Department of State, may result in termination of this contract. During the term of this Contract, any changes in the provided 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.
- 5.2 The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Department, 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.

- 5.3 The Department reserves the right to suspend any or all activities under this Contract, at any time, when information is discovered that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Department issues a written notice authorizing a resumption of performance under the Contract.
- 5.4 Should it be determined at any time that a Contractor is not responsible, the Department will notify the vendor in writing setting forth the basis for the determination and affording the Contractor reasonable time in which to refute the determination, justify why the basis for the determination is not relevant to this contract or to take corrective action to eliminate the responsibility impediment. If the responsibility condition cannot be reconciled to the satisfaction of the Department the contract or contract offer will be terminated by written notification given by the Department to the Contractor. In such event, the Department may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.
- 5.5 This section shall also apply to any proposed subcontractor performing services under the contract in excess of \$100,000.00, or at the discretion of DOS.

ARTICLE VI – STATE CONSULTANT SERVICES REPORTING

- 6.1 Chapter 10 of the Laws of 2006 amended the Civil Service Law and the State Finance Law, relative to maintaining certain information concerning contract employees working under State agency service and consulting contracts. State agency consultant contracts are defined as “contracts entered into by a state agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal, or similar services” (“covered consultant contract” or “covered consultant services”). The amendments also require that certain contract employee information be provided to the state agency awarding such contracts, the Office of the State Comptroller (OSC), the Division of the Budget and the Department of Civil Service (CS). The effective date of these amendments is June 19, 2006. The requirements will apply to covered contracts awarded on and after such date.
- 6.2 To meet these requirements, the following must be completed:
- Form A – the Contractor’s Planned Employment Form – completed and submitted with the executed contract.
 - Form B – the Contractor’s Annual Employment Report throughout the term of the Contract submitted by May 1st of each year.

The following information must be reported for each covered consultant contract in effect at any time between the preceding April 1st through March 31st fiscal year or for the period of time such contract was in effect during such prior State fiscal year:

1. Total number of employees employed to provide the consultant services, by employment category.
2. Total number of hours worked by such employees.
3. Total compensation paid to all employees that performed consultant services under such Contract.

(Information must be reported on the Contractor's Annual Employment Report (Form B) or other format stipulated by DOS.)

The information to be reported is applicable only to those employees who are directly providing services or directly performing covered consultant services. However, such information shall also be provided relative to employees of Subcontractors who perform any part of the service contract or any part of the covered consultant contract. This information does not have to be collected and reported in circumstances where there is ancillary involvement of an employee in a clerical, support, organizational or other administrative capacity.

- 6.3 Contractor agrees to simultaneously report such information via Form B to the Department of Civil Service, the Office of the State Comptroller and the Department of State, as designated below:

NYS Office of the State Comptroller
Bureau of Contracts
110 State St, 11th floor
Albany, NY 12236
Attn: Consultant Reporting

NYS Department of State
Contract Administration Unit
1 Commerce Plaza
99 Washington Avenue, Suite 1110
Albany, NY 12231

NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, NY 12239

- 6.4 Contractor is advised herein and understands that this information is available for public inspection and copying pursuant to section 87 of the New York State Public Officers Law (Freedom of Information Law). In the event individual employee names or social security numbers are set forth on a document, the state agency making such disclosure is obligated to redact both the name and social security number prior to disclosure.

ARTICLE VII – MINORITY AND WOMEN OWNED BUSINESS PARTICIPATION

- 7.1 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.

- 7.2 For purposes of this AGREEMENT, the STATE hereby establishes a 30% MWBE participation goal (15% MBE and 15% WBE).

ARTICLE VIII – EQUAL EMPLOYMENT OPPORTUNITY

- 8.1 The Contractor hereby assures that it is, and shall be for the duration of this Agreement, in compliance with Title VII of the Civil Rights Act of 1964, as amended, and other federal and state equal employment opportunity laws.

ARTICLE IX – CONFIDENTIALITY

- 9.1 All the reports, information, data, and other papers and materials in whatever form prepared or assembled by the CONTRACTOR under this AGREEMENT are confidential, and the CONTRACTOR shall not discuss them with or make them available to any individual or organization, other than in connection with the performance of duties and responsibilities under this AGREEMENT, without the prior written approval of the STATE. These provisions do not apply to information that is in the public domain nor shall they restrict the CONTRACTOR from giving notices required by law or complying with an order to provide information or data when such order is issued by a court of competent jurisdiction. If disclosure of confidential information is required of the CONTRACTOR by judicial subpoena or other court process, the CONTRACTOR agrees to immediately notify the STATE of such process and allow the STATE to inspect any such data or information and interpose objections prior to delivery to the court. The CONTRACTOR shall ensure that all confidential or privileged records are kept in appropriately secured areas, and shall take reasonable precautions to protect the records in its custody from the dangers of fire, theft, flood, natural disasters and other physical threats, as well as unauthorized access.
- 9.2 Unless the STATE designates otherwise in writing, all information or data and all other documents generated or collected by the CONTRACTOR in the scope of its work under this AGREEMENT shall be deemed to be the exclusive property of the State of New York. No one else shall have any right, including, but not limited to, intellectual property rights (including trademark and copyright rights) in those items. No use of such materials or information shall be made without permission of the STATE. Consistent with these provisions, the CONTRACTOR shall have the right to keep and use all copies of its work product, including memoranda, notes, briefs, depositions and other transcripts. CONTRACTOR represents to the STATE that it has sufficient title or interest in such works to license pursuant to this AGREEMENT. Such representation shall survive the termination of this AGREEMENT. The STATE shall make all information or data and all other documents generated or collected by the CONTRACTOR in the scope of its work under this AGREEMENT available to the public at no cost. STATE hereby provides CONTRACTOR a revocable, non-exclusive license to use and distribute intellectual property developed under this contract for the purposes contained in Attachments B and C. Contractor's license is subject to third party confidentiality or other proprietary rights.

ARTICLE X – INDEMNIFICATION

- 10.1 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

AGREEMENT. The CONTRACTOR shall indemnify and hold harmless the STATE and its officers and employees from claims, suits, actions, damages and costs of every nature to the extent caused by the negligent acts, errors or omissions of the CONTRACTOR in its performance of its services pursuant to this AGREEMENT.

- 10.2 Neither party shall be liable for losses, defaults, or damages under this AGREEMENT which result from delays in performing, or the inability to perform, all or any of the obligations or responsibilities imposed upon either party pursuant to the terms and conditions of this AGREEMENT, due to or because of acts of God, the public enemy; earthquake, floods, typhoons, civil strife, force or any other cause beyond the reasonable control of the party that was so delayed in performing or so unable to perform, provided that such party was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such party shall resume full performance of such obligations and responsibilities promptly upon removal of any such cause.
- 10.3 The CONTRACTOR is an independent contractor 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.

ARTICLE XI – PAYMENT AND REPORTING

- 11.1 To be eligible for payment, the CONTRACTOR shall submit to the STATE's designated payment office (identified in Appendix D) any appropriate documentation as required by the Payment and Reporting Schedule (Appendix D) and by agency fiscal guidelines, in a manner acceptable to the STATE.
- 11.2 The STATE shall make payments and any reconciliations in accordance with the Payment and Reporting Schedule (Appendix D). The STATE shall pay the CONTRACTOR, in consideration of contract services, a sum not to exceed the amount noted on the face page hereof. This sum shall not duplicate reimbursement from other sources for CONTRACTOR costs and services provided pursuant to this AGREEMENT.
- 11.3 The CONTRACTOR agrees to comply with requests for information in support of requests for payment in a timely and responsive manner.
- 11.4 The CONTRACTOR shall meet the audit requirements specified by the STATE.

ARTICLE XII – RECORDS RETENTION

- 12.1 The CONTRACTOR shall maintain, at its principal place of business, detailed books and accounting records supported by original documentation relating to the incurring of all expenditures, as well as payments made pursuant to this AGREEMENT. The CONTRACTOR shall make such records available for review by the STATE upon request at any time. The STATE shall have the right to conduct progress assessments and review books and records as necessary. The STATE 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 a reasonable time following, issuance of the final payment. The STATE 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 STATE, or in this AGREEMENT, or in any progress reports or payment requests made pursuant hereto. The CONTRACTOR shall maintain such books and accounting records in a manner so that reports can be produced therefrom in accordance with generally accepted accounting principles. The CONTRACTOR shall maintain separate fiscal books and records for all funds received through the STATE pursuant to this AGREEMENT.

- 12.2 During the term of this AGREEMENT and for a period of six years after its termination, the CONTRACTOR shall make all such books and records available to the STATE and the Office of the State Comptroller, or their designated representatives, for inspection and audit.

ARTICLE XIII - TERMINATION

- 13.1 Mutual Consent: The AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the CONTRACTOR.
- 13.2 Cause: The STATE may terminate the AGREEMENT upon written notice of termination to the CONTRACTOR, if the CONTRACTOR fails to comply with any of the terms and conditions of the contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the AGREEMENT and fails to cure such cause within a reasonable time as set forth in the written notice.
- 13.3 Non-Responsibility: 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 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.
- 13.4 Convenience: The STATE may terminate the AGREEMENT in its sole discretion upon thirty (30) calendar days prior written notice.
- 13.5 Lack of Funds: If for any reason the STATE terminates or reduces its appropriation to the applicable State Agency entering into the contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this AGREEMENT, the AGREEMENT 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 AGREEMENT, 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 AGREEMENT. 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.
- 13.6 Force Majeure: The STATE may terminate or suspend its performance under the AGREEMENT immediately upon the occurrence of a "force majeure." For purposes of the AGREEMENT, "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.

ARTICLE XIV – NOTICES

14.1 Any notices shall be in writing and transmitted by mail or email to the following:

Notice to the CONTRACTOR:

[List name(s) and contact information]

Notice to the STATE:

[List name(s) and contact information]

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this 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 are 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 contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller'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 any 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 this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the

Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. 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 this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. 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 a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

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

9. 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 this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this 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 the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the

agency or agencies involved in this contract, shall have access to the Records during normal business hours 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. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") 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 the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, 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 payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) 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 principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The 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.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of

\$25,000.00, whereby a contracting 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 agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting 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 following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, 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 and will 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, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, 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; and

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

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The

contracting agency 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 contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will 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.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

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

15. LATE PAYMENT. Timeliness of payment 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.

16. NO ARBITRATION. Disputes involving this 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.

17. 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. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by

any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (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 Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

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

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

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

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

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and

women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5))) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

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

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

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

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

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

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

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

Appendix B: Budget

Budget Summary:	Total Amount
A. Salaries	\$
B. Travel	\$
C. Supplies	\$
D. Equipment	\$
E. Contractual Services	\$
F. Other	\$
Total Budget:	\$

MWBE Goals:		
State funds subject to MWBE goals		\$
MBE Goal	%	\$
WBE Goal	%	\$

A. SALARIES (including fringe benefits)	Total Amount
Total	\$ 0.00

B. TRAVEL	Total Amount
Total	\$ 0.00

C. SUPPLIES	Total Amount
Total	\$ 0.00

D. EQUIPMENT	Total Amount
Total	\$ 0.00

E. CONTRACTUAL SERVICES	Total Amount
Total	\$ 0.00

F. OTHER	Total Amount
Total	\$ 0.00

Appendix C: Program Work Plan

The Consultant will provide assistance and support to a Local Planning Committee (LPC) and the State in completion of Downtown Revitalization Initiative (DRI) and/or New York Forward (NYF) Strategic Investment Plans by undertaking the following tasks:

Task 1. Sub-Contracting

Contractors shall determine an appropriate team of sub-contractors to successfully complete the project and meet the requirements of the contract. A list of selected sub-contractors, anticipated level of effort and area of expertise for each shall be submitted to the State for approval.

Deliverables: *A final list of sub-contractors.*

Task 2. Coordinated Approach

During the contract period, the State may convene multiple Consultants from various REDC regions, either in person or virtually, to jointly discuss and develop uniform approaches to certain aspects of the DRI and NYF. Topics may include, but are not limited to, project profile content, cost-benefit analyses, performance indicators and metrics, presentation of materials, energy efficiency strategies, and public engagement techniques. Consultants may also be asked to prepare presentations for the Secretary of State, the REDCs, or other stakeholders.

Deliverables: *Participation in DRI and/or NYF virtual meetings/call with DOS and State agency partners, as requested. Draft and final presentations or briefing materials on DRI and/or NYF, as requested.*

Task 3. Local Planning Committee Coordination

The Consultant will organize, prepare for, staff, and report on regular Local Planning Committee meetings, which may be in-person or virtual at the discretion of the State and the committee members. In the case of virtual meetings, the Consultant will provide an appropriate technical platform. Meetings will be held at regular intervals consistent with each community's planning process, likely on a monthly basis. It is anticipated that the Local Planning Committee will include local municipal leadership as well as community representatives and other key local and regional stakeholders. Meetings will be open to the public and should accommodate a means for the public to provide comments.

Deliverables:

- *Preparation and delivery of all aspects of monthly (or as needed) LPC meetings whether held in person or virtually. All meetings shall be held in a format accessible to the public*
- *Preparation of draft meeting materials at least 10 days prior to scheduled LPC meetings*
- *Final LPC meeting materials*
- *Summary and reporting of each LPC meeting, outcomes, and follow-up items*

Task 4. Community Engagement

The Consultant shall carry out public engagement events and other activities as will be defined by the State and the Local Planning Committee in order to fully engage residents, businesses, and other key groups in the downtown, and to encourage participation from a broad and diverse population. A robust community engagement process is encouraged, and Consultants should be prepared to support a variety of initiatives throughout the process, and to proactively encourage and facilitate participation by all sectors of the local population, including non-English speaking communities, communities with mobility challenges, and other underrepresented groups. Consultants should utilize effective and creative approaches to virtual public engagement that may be employed as needed. All activities will build on public engagement efforts conducted during development of the Community's application and will include at least three public meetings or workshops; an interactive web presence which may be hosted on the community's website or as a stand-alone site which the Consultant would be responsible for providing, at the discretion of the community and the State; and focus groups or interviews with selected stakeholder groups. Additional activities may include but are not limited to charrettes, surveys, information booths, and storefront information centers. All public events must include an opportunity for attendees to provide feedback, and an opportunity for citizens who cannot attend to provide feedback. Each event must include public notice, outreach to underserved communities and displaced stakeholders, information gathering from those attending, and the collection and inclusion of feedback into the ongoing planning process.

Deliverables:

- *Development of a draft and final Community Participation Plan outlining the proposed DRI/NYF community outreach applicable to each community to foster the broadest and most inclusive participation in the planning process.*
- *Development and hosting of a DRI and or NYF website for each DRI/NYF community during the planning process*
- *Development, outreach, and delivery of all aspects of the community participation and outreach process including public meetings, stakeholder engagement, workshops, focus groups, local events or other techniques as determined in consultation with the LPC and the State.*
- *Written and photographic documentation of all public engagement activities*

Task 5. Downtown Profile and Assessment

Working with the Local Planning Committee and key municipal representatives, and drawing on existing plans and strategies, the Consultant will develop a profile of the downtown that includes, as appropriate, the following:

- A description of the boundaries of the DRI or NYF Area and its context within the region;
- A summary of past planning efforts;
- A description of how potential revitalization of the DRI or NYF Area relates to strategies and priorities in Regional Economic Development Council (REDC) plans;

- A description of present conditions in the DRI or NYF area, such as: critical issues; current advantages and opportunities; socio-economic characteristics; housing availability and characteristics; physical characteristics; historic and cultural resources; environmental constraints; transportation and infrastructure; retail outlets for healthy and affordable food; anchor institutions and significant employers; and the regulatory context, including existing land uses, recreational opportunities, vacant and underutilized sites, and status of zoning and other land use regulations;
- Key findings from retail, housing, or other relevant market analyses;
- A description of recent, ongoing and planned projects; and
- A description of the local organizational and management capacity to effect change.

The downtown profile and assessment must provide a clear, concise, and compelling narrative that identifies the unique characteristics of the DRI or NYF Area and its strengths, opportunities, and challenges. The profile and assessment shall support the DRI or NYF vision, goals, strategies, and projects proposed in the Strategic Investment Plan.

Deliverables:

- *Development of a draft and final Downtown Profile and Assessment, which includes appropriate and relevant information as described above.*

Task 6. Downtown Vision and Goals

The Consultant shall assist the Local Planning Committee in developing goals that build upon the vision for downtown revitalization as articulated in the community's application and as refined during the planning process. The goals should incorporate, as appropriate, the following fundamental objectives:

- Creation of an active, desirable downtown with a strong sense of place;
- Attraction of new businesses (including "Main Street" businesses) that create a robust mix of shopping, dining, entertainment, and service options for residents and visitors, and that provide job opportunities for a variety of skills and salaries;
- Enhancement of public spaces for arts and cultural events that serve the existing members of the community but also draw in attendees from around the region;
- Building a diverse population, with residents and workers supported by complementary diverse housing and employment opportunities;
- Growing the local property tax base;
- Amenities to support and enhance downtown living and quality of life; and
- Reduction of greenhouse gas emissions by creating compact, walkable development patterns that increase public transit ridership and by supporting efficiency and electrification of buildings, installation of onsite renewable energy generation, and electric vehicle charging.

Deliverables:

- *Development of a draft and final vision inclusive of input from the Local Planning Committee and the community*

- *Development of draft and final goals that support the vision and are inclusive of input from the Local Planning Committee and the community*

Task 7. Revitalization Strategies and Projects

Based on the downtown vision and goals, the Consultant shall guide the Local Planning Committee in the development of creative and ambitious strategies and projects to direct future development and investment in the downtown. Strategies will address how the community hopes to accomplish the goals to realize its vision.

Each project must be supported by a strategy and represent a holistic approach to downtown revitalization. Projects and strategies may include both those proposed in the community's application and any additional actions identified by the Local Planning Committee and the Consultant during the planning process.

Strategic Investment Plans will include a list of projects that may be implemented with a variety of public and private resources, including, but not limited to DRI or NYF award funds. For each project proposed for funding, a detailed profile is required that presents the project in the context of the overall revitalization plan and describes the relationship of the project to other projects.

The Consultant shall assist the Local Planning Committee in identifying, evaluating, and selecting catalytic projects as candidates for implementation using the DRI or NYF funding from among those projects identified in the community's application and through the planning process. This may include working directly with multiple project sponsors to shape project proposals to address strategies identified by the Local Planning Committee. Projects recommended for funding should be key to the overall revitalization strategy and have the potential to leverage additional investment.

To convey context and the interconnectivity of projects, the Consultant shall also prepare a graphic representation that presents recommended projects in relationship to each other and to the DRI/NYF area.

Deliverables:

- *Development of specific strategies that support the implementation of the community's vision and goals*
- *Development of materials and process(es) to support the Local Planning Committee in identifying, evaluating, and selecting catalytic projects for potential implementation*
- *Graphic representation showing the projects in relationship to each other and to the DRI/NYF area*

Task 8. Project Profiles

For each project recommended for funding, the Consultant shall develop a robust and detailed project profile that provides a clear description of the project including the project budget with proposed use of DRI or NYF funds and uses and sources of other funds, and that presents a clear path forward to implementation. The Consultant will develop the following information at a minimum:

- Project title;
- DRI or NYF funding request and total project cost;
- Project description;

- Project location or address;
- Project sponsor;
- Property ownership;
- Capacity of project sponsor to implement and sustain the project;
- Project partners;
- Strategies being addressed;
- Decarbonization strategies and benefits incorporated into the project;
- Anticipated revitalization benefits;
- Public support;
- Project budget, phasing, and sources and uses of other funding;
- Feasibility and cost justification, including a detailed and accurate cost estimate;
- Regulatory requirements;
- Images of current and proposed conditions for each project, including photographs of existing conditions and a rendering of completed projects;
- Timeframe for implementation and project readiness; and
- Others, as may be requested

The Consultant must dedicate substantial effort to developing project profiles, and should ensure that the team has the appropriate expertise and capacity to evaluate project feasibility, develop detailed and accurate cost estimates and a realistic budget, complete pro-formas as required, and undertake targeted economic assessments, market studies, and/or other analyses as appropriate to demonstrate the feasibility and potential impact of the project on the overall economic health of the downtown area and surrounding region. In addition, the Consultant must prepare renderings of all proposed projects.

At the request of the Local Planning Committee, the Consultant may also prepare more limited project profiles or brief descriptions of additional projects and initiatives that the Local Planning Committee wishes to include in the Strategic Investment Plan without a recommendation for funding.

Deliverables:

- *Development of individual project profiles, which include the required information at a minimum, for the projects selected by the Local Planning Committee for inclusion in the Strategic Investment Plan*
- *Development of limited profiles or descriptions of projects that are not recommended for DRI/NYF funding as directed by the Local Planning Committee*

Task 9. Strategic Investment Plan

The Consultant shall develop and present to the Local Planning Committee the findings and recommendations leading to downtown revitalization in a Strategic Investment Plan. The plan will be well-written with editorial support provided and lead to a cohesive, well-articulated, and compelling document. Changes or edits requested by the Local Planning Committee and DOS will be incorporated into a Final Strategic Investment Plan and presented to the DOS for acceptance.

The Final Strategic Investment Plan will include identification of economic development, transportation, housing, and community projects that align with the community's vision of downtown revitalization and

that can be leveraged for additional investment. A detailed framework for a Strategic Investment Plan and project profile will be provided by the DOS. All such plans shall be organized and presented in a manner determined by DOS, in consultation with the Consultant.

Following submission of the plan, the Consultant may be called on to make additional edits to the plan and to answer questions about projects recommended for funding.

Deliverables:

- *A draft Strategic Investment Plan consistent with plan guidance provided by DOS*
- *A final Strategic Investment Plan consistent with plan guidance provided by DOS*

Task 10. Back-up Materials

The Consultant will provide all relevant documents utilized in the planning process in a manner prescribed by DOS. In addition to other documents, an electronic folder for each recommended project in the Strategic Investment Plan shall be provided with all back-up materials to include images, application submission, renderings, pro-formas, and any other related documents utilized in the planning process or requested by DOS.

Deliverables: *Delivery of all relevant back-up materials (photos, graphics, GIS files, project documentation, outreach and meeting materials, etc) collected and used during the planning process and development of project profiles and Strategic Investment Plan.in a format and organization as requested by DOS.*

Appendix D: Payment and Reporting Schedule

This contract is a true cost reimbursement AGREEMENT. The CONTRACTOR may claim and be reimbursed for eligible project costs in the approved budget categories listed in Appendix B incurred and paid for by the CONTRACTOR. Eligible project costs must be incurred and goods and services must be received and accepted by the CONTRACTOR within the contract period. The total of such reimbursement shall not exceed the funding amount for this AGREEMENT as outlined in the most recently approved Appendix B and shall be claimed by the CONTRACTOR in accordance with the approved contract.

I. Payment Terms and Conditions

- A. Payment requests must be certified by a duly authorized representative of the CONTRACTOR as accurately representing such accomplishments and expenses as recorded in the CONTRACTOR'S accounting records, including where goods or services are provided by third parties not party to this AGREEMENT, a certification that any payment obligations arising from the provision of such goods or services have been paid by the CONTRACTOR and do not duplicate reimbursement or costs and services received from other sources.
- B. No payment under this AGREEMENT, other than advances as authorized herein, will be made by the STATE to the CONTRACTOR unless proof of performance of required services or accomplishments is provided. If the CONTRACTOR fails to perform the services required under this AGREEMENT the STATE shall, in addition to any remedies available by law or equity, recoup payments made but not earned, by set-off against any other public funds owed to CONTRACTOR.
- C. The CONTRACTOR will be entitled to receive payments for work, projects, and services rendered as detailed and described in the approved Appendix B. Billing vouchers submitted to the STATE must contain all information and supporting documentation required by the AGREEMENT, the STATE and the State Comptroller. Payment for vouchers submitted by the CONTRACTOR shall be rendered electronically unless payment by paper check is expressly authorized by the Secretary of State, in the Secretary's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by email at epunit@osc.state.ny.us or by telephone at (518) 474-6019. The CONTRACTOR acknowledges that it will not receive payment on any vouchers submitted under this contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Secretary of State has expressly authorized payment by paper check as set forth above.

- D. The CONTRACTOR shall submit to the STATE quarterly voucher claims and reports of expenditures on such forms and in such detail as the STATE shall require. The CONTRACTOR shall submit complete and accurate vouchers to the STATE's designated payment office located at the following address:

Bureau of Fiscal Management
NYS Department of State
1 Commerce Plaza
99 Washington Avenue, Suite 1110
Albany, NY 12231

If work concludes early, a voucher may be submitted for the remaining contract value as described in Appendix B. All vouchers submitted by the CONTRACTOR pursuant to this AGREEMENT shall be submitted to the STATE no later than 30 days after the end date of the period for which reimbursement is being claimed. In no event shall the amount received by the CONTRACTOR exceed the budget amount approved by the STATE. All contract advances in excess of actual expenditures will be recouped by the STATE prior to the end of the applicable budget period.

II. Reporting Terms and Conditions

- A. The CONTRACTOR will provide the STATE with the reports of progress or other specific work products pursuant to this AGREEMENT as described in Appendix C. All required reports or other work products developed under this AGREEMENT must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to the STATE in order for the CONTRACTOR to be eligible for payment.
- B. The CONTRACTOR shall provide to the STATE project status updates by teleconference on an approximate bi-weekly basis (every two weeks), and upon request by the STATE. The CONTRACTOR will develop and electronically mail an agenda prior to each such teleconference. The CONTRACTOR will prepare a monthly status report covering all project tasks performed during the month. All monthly project status reports are due by 4:00 p.m. on the last business day of the month.

III. Other

- A. The DEPARTMENT shall have the right to conduct on-site progress assessments and reviews of the project and CONTRACTOR'S records during the life of the AGREEMENT and for a reasonable time following the issuance of the final payment. The CONTRACTOR shall furnish proper facilities, where necessary or useful, for such access and inspection at the DEPARTMENT'S convenience.

- B. The DEPARTMENT shall be entitled to disallow any cost or expense, or terminate or suspend this AGREEMENT if found that the CONTRACTOR has misrepresented any expenditure(s) or project activities in the AGREEMENT, or in any progress reports(s) or payment requests made pursuant hereto.
- C. The CONTRACTOR is required to keep separate books and records for all funds received and activities conducted under the AGREEMENT, and to make such books and records available for inspection and audit for 6 years following termination of the AGREEMENT.

APPENDIX X

MODIFICATION AGREEMENT FORM

Agency Code: 3800000/DOS01
Contract Period: _____

Contract No.: _____
Funding for Amendment: \$ _____

This is an AGREEMENT between THE STATE OF NEW YORK, acting by and through the New York State Department of State, having its principal office in Albany, New York (hereinafter referred to as the STATE), and _____ (hereinafter referred to as the CONTRACTOR), for modification of the contract number noted above, as amended herein and noted below.

Type of contract modification:

- ☐ Renewal Revised total contract value \$ _____
☐ No cost time extension
☐ Amendment: _____
☐ Attached Appendices: _____

All other provisions of said AGREEMENT shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the dates appearing under their signatures.

CONTRACTOR SIGNATURE

NYS DEPARTMENT OF STATE

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

State Agency Certification: "In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract."

State of New York)
County of _____)ss:

On this _____ day of _____, in the year 20____, before me personally appeared _____, to me known and known to me to be the person who is the _____ of _____, the organization described in and which executed the above instrument; and that he/she has the authority to sign on behalf of said organization; and that he/she executed the foregoing agreement for and on behalf of said organization.

NOTARY PUBLIC

ATTORNEY GENERAL SIGNATURE

STATE COMPTROLLER SIGNATURE

Signature: _____

Signature: _____

Name: _____

Name: _____

Date: _____

Date: _____